

[COMMITTEE PRINT]

APRIL 3, 2003

(Showing the Text of H.R. 1350 as Reported by the Subcommittee on Education Reform)

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Improving Education
3 Results for Children With Disabilities Act of 2003”.

4 **TITLE I—GENERAL PROVISIONS**

5 **SEC. 101. SECTIONS 601 THROUGH 603 OF THE INDIVIDUALS**
6 **WITH DISABILITIES EDUCATION ACT.**

7 Sections 601 through 603 of the Individuals with
8 Disabilities Education Act (20 U.S.C. 1400–1402) are
9 amended to read as follows:

10 **“PART A—GENERAL PROVISIONS**

11 **“SEC. 601. SHORT TITLE; TABLE OF CONTENTS; FINDINGS;**
12 **PURPOSES.**

13 “(a) **SHORT TITLE.**—This Act may be cited as the
14 ‘Individuals with Disabilities Education Act’.

15 “(b) **TABLE OF CONTENTS.**—The table of contents
16 for this Act is as follows:

“PART A—GENERAL PROVISIONS

“Sec. 601. Short title; table of contents; findings; purposes.

“Sec. 602. Definitions.

“Sec. 603. Office of Special Education Programs.

“Sec. 604. Abrogation of State sovereign immunity.

“Sec. 605. Acquisition of equipment; construction or alteration of facilities.

“Sec. 606. Employment of individuals with disabilities.



“Sec. 607. Requirements for prescribing regulations.

“Sec. 608. State administration.

“PART B—ASSISTANCE FOR EDUCATION OF ALL CHILDREN WITH
DISABILITIES

“Sec. 611. Authorization; allotment; use of funds; authorization of appropriations.

“Sec. 612. State eligibility.

“Sec. 613. Local educational agency eligibility.

“Sec. 614. Evaluations, eligibility determinations, individualized education programs, and educational placements.

“Sec. 615. Procedural safeguards.

“Sec. 616. Monitoring, enforcement, withholding, and judicial review.

“Sec. 617. Administration.

“Sec. 618. Program information.

“Sec. 619. Preschool grants.

“PART C—INFANTS AND TODDLERS WITH DISABILITIES

“Sec. 631. Findings and policy.

“Sec. 632. Definitions.

“Sec. 633. General authority.

“Sec. 634. Eligibility.

“Sec. 635. Requirements for statewide system.

“Sec. 636. Individualized family service plan.

“Sec. 637. State application and assurances.

“Sec. 638. Uses of funds.

“Sec. 639. Procedural safeguards.

“Sec. 640. Payor of last resort.

“Sec. 641. State Interagency Coordinating Council.

“Sec. 642. Federal administration.

“Sec. 643. Allocation of funds.

“Sec. 644. Authorization of appropriations.

“PART D—NATIONAL ACTIVITIES TO IMPROVE EDUCATION OF CHILDREN
WITH DISABILITIES

“Sec. 651. Findings.

“SUBPART 1—STATE PROFESSIONAL DEVELOPMENT GRANTS

“Sec. 652. Purpose.

“Sec. 653. Eligibility and collaborative process.

“Sec. 654. Applications.

“Sec. 655. Use of funds.

“Sec. 656. State grant amounts.

“Sec. 657. Authorization of appropriations.

SUBPART 2—SCIENTIFICALLY BASED RESEARCH; TECHNICAL ASSISTANCE;
MODEL DEMONSTRATION PROJECTS; DISSEMINATION OF INFORMATION; AND
PERSONNEL PREPARATION PROGRAMS

“Sec. 661. Purpose.

“Sec. 662. Administrative provisions.

“Sec. 663. Research to improve results for children with disabilities.

“Sec. 664. Technical assistance, demonstration projects, dissemination of information, and implementation of scientifically based research.



“Sec. 665. Personnel preparation programs to improve services and results for children with disabilities.

“Sec. 666. Studies and evaluations.

“Sec. 667. Authorization of appropriations.

“SUBPART 3—SUPPORTS TO IMPROVE RESULTS FOR CHILDREN WITH
DISABILITIES

“Sec. 671. Purposes.

“Sec. 672. Parent and community training and information centers.

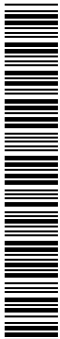
“Sec. 673. Technical assistance for parent and community training and information centers.

“Sec. 674. Technology development, demonstration, and utilization; and media services.

1 “(c) FINDINGS.—Congress finds the following:

2 “(1) Disability is a natural part of the human
3 experience and in no way diminishes the right of in-
4 dividuals to participate in or contribute to society.
5 Improving educational results for children with dis-
6 abilities is an essential element of our national policy
7 of ensuring equality of opportunity, full participa-
8 tion, independent living, and economic self-suffi-
9 ciency for individuals with disabilities.

10 “(2) Before the date of the enactment of the
11 Education for All Handicapped Children Act of
12 1975 (Public Law 94–142) the special educational
13 needs of millions of children with disabilities were
14 not being fully met and there were many children
15 with disabilities participating in regular school pro-
16 grams whose undiagnosed disabilities prevented
17 them from having a successful educational experi-
18 ence.



1 “(3) Since the enactment and implementation
2 of the Education for All Handicapped Children Act
3 of 1975, this Act has been successful in ensuring
4 children with disabilities and the families of such
5 children access to a free appropriate public edu-
6 cation and in improving educational results for chil-
7 dren with disabilities.

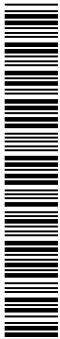
8 “(4) Over 25 years of research and experience
9 has demonstrated that the education of children with
10 disabilities can be made more effective by—

11 “(A) having high expectations for such
12 children and ensuring their access to the gen-
13 eral education curriculum in the regular class-
14 room to the maximum extent possible in
15 order—

16 “(i) to meet developmental goals and,
17 to the maximum extent possible, the chal-
18 lenging expectations that have been estab-
19 lished for all children; and

20 “(ii) to be prepared to lead productive
21 and independent adult lives, to the max-
22 imum extent possible;

23 “(B) strengthening the role and responsi-
24 bility of parents and ensuring that families of
25 such children have meaningful opportunities to



1 participate in the education of their children at
2 school and at home;

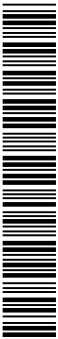
3 “(C) coordinating this Act with other local,
4 State, and Federal school improvement efforts,
5 including efforts under the Elementary and
6 Secondary Education Act of 1965, in order to
7 ensure that children with disabilities benefit
8 from such efforts and that special education
9 can become a service for such children rather
10 than a place where they are sent;

11 “(D) supporting high-quality, intensive
12 professional development for personnel who
13 work with children with disabilities;

14 “(E) providing incentives for scientifically
15 based reading programs and prereferral inter-
16 vention services to reduce the need to label chil-
17 dren as disabled in order to address their learn-
18 ing needs;

19 “(F) focusing resources on teaching and
20 learning while reducing paperwork and require-
21 ments that do not assist in improving edu-
22 cational results; and

23 “(G) supporting the development and use
24 of technology, including assistive technology de-



1 vices and services, to maximize accessibility for
2 children with disabilities.

3 “(5) While States, local educational agencies,
4 and educational service agencies are primarily re-
5 sponsible for providing an education for all children
6 with disabilities, it is in the national interest that
7 the Federal Government have a supporting role in
8 assisting State and local efforts to educate children
9 with disabilities in order to improve results for such
10 children and to ensure equal protection of the law.

11 “(6) A more equitable allocation of resources is
12 essential for the Federal Government to meet its re-
13 sponsibility to provide an equal educational oppor-
14 tunity for all individuals.

15 “(7)(A) The Federal Government must respond
16 to the growing needs of an increasingly diverse soci-
17 ety.

18 “(B) America’s ethnic profile is rapidly chang-
19 ing. In the year 2000, nearly one of every three per-
20 sons in America was a member of a minority group
21 or was limited English proficient.

22 “(C) Minority children comprise an increasing
23 percentage of public school students.

24 “(D) With such changing demographics, re-
25 cruitment efforts for special education personnel



1 should focus on increasing the participation of mi-
2 norities in the teaching profession in order to pro-
3 vide appropriate role models with sufficient knowl-
4 edge to address the special education needs of these
5 students.

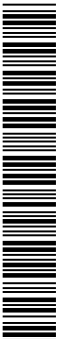
6 “(8)(A) The limited English proficient popu-
7 lation is the fastest growing in our Nation, and the
8 growth is occurring in many parts of our Nation.

9 “(B) Studies have documented apparent dis-
10 crepancies in the levels of referral and placement of
11 limited English proficient children in special edu-
12 cation.

13 “(C) This poses a special challenge for special
14 education in the referral, assessment, and provision
15 of services for our Nation’s students from non-
16 English language backgrounds.

17 “(9)(A) Greater efforts are needed to prevent
18 the intensification of problems connected with
19 mislabeling and high dropout rates among minority
20 children with disabilities.

21 “(B) More minority children continue to be
22 served in special education than would be expected
23 from the percentage of minority students in the gen-
24 eral school population.



1 “(C) African-American children are overidenti-
2 fied as having mental retardation and emotional dis-
3 turbance at rates greater than their white counter-
4 parts.

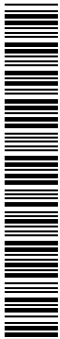
5 “(D) In the 1998-99 school year, African Amer-
6 ican children represented just 14.8 percent of the
7 population aged 6 through 21, but comprised 20.2
8 percent of all children with disabilities.

9 “(E) Studies have found that schools with pre-
10 dominantly caucasian students and teachers have
11 placed disproportionately high numbers of their mi-
12 nority students into special education.

13 “(10)(A) As the number of minority students in
14 special education increases, the number of minority
15 teachers and related services personnel produced in
16 colleges and universities continues to decrease.

17 “(B) The opportunity for full participation by
18 minority individuals, organizations, and historically
19 black colleges and universities in awards for grants
20 and contracts, boards of organizations receiving as-
21 sistance under this Act, peer review panels, and
22 training of professionals in the area of special edu-
23 cation is essential to obtain greater success in the
24 education of minority children with disabilities.

25 “(d) PURPOSES.—The purposes of this title are—



1 “(1)(A) to ensure that all children with disabil-
2 ities have available to them a free appropriate public
3 education that emphasizes special education and re-
4 lated services designed to meet their unique needs
5 and prepare them for further education, employ-
6 ment, and independent living;

7 “(B) to ensure that the rights of children with
8 disabilities and parents of such children are pro-
9 tected; and

10 “(C) to assist States, localities, educational
11 service agencies, and Federal agencies to provide for
12 the education of all children with disabilities;

13 “(2) to assist States in the implementation of
14 a statewide, comprehensive, coordinated, multidisci-
15 plinary, interagency system of early intervention
16 services for infants and toddlers with disabilities and
17 their families;

18 “(3) to ensure that educators and parents have
19 the necessary tools to improve educational results for
20 children with disabilities by supporting system im-
21 provement activities; coordinated research and per-
22 sonnel preparation; coordinated technical assistance,
23 dissemination, and support; and technology develop-
24 ment and media services; and



1 “(4) to assess, and ensure the effectiveness of,
2 efforts to educate children with disabilities.

3 **“SEC. 602. DEFINITIONS.**

4 “Except as otherwise provided, as used in this Act:

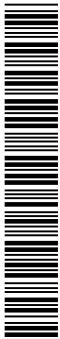
5 “(1) ASSISTIVE TECHNOLOGY DEVICE.—The
6 term ‘assistive technology device’ means any item,
7 piece of equipment, or product system, whether ac-
8 quired commercially off the shelf, modified, or cus-
9 tomized, that is used to increase, maintain, or im-
10 prove functional capabilities of a child with a dis-
11 ability.

12 “(2) ASSISTIVE TECHNOLOGY SERVICE.—The
13 term ‘assistive technology service’ means any service
14 that directly assists a child with a disability in the
15 selection, acquisition, or use of an assistive tech-
16 nology device. Such term includes—

17 “(A) the evaluation of the needs of such
18 child, including a functional evaluation of the
19 child in the child’s customary environment;

20 “(B) purchasing, leasing, or otherwise pro-
21 viding for the acquisition of assistive technology
22 devices by such child;

23 “(C) selecting, designing, fitting, custom-
24 izing, adapting, applying, maintaining, repair-
25 ing, or replacing of assistive technology devices;



1 “(D) coordinating and using other thera-
2 pies, interventions, or services with assistive
3 technology devices, such as those associated
4 with existing education and rehabilitation plans
5 and programs;

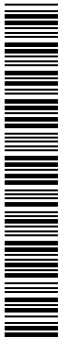
6 “(E) training or technical assistance for
7 such child, or, where appropriate, the family of
8 such child; and

9 “(F) training or technical assistance for
10 professionals (including individuals providing
11 education and rehabilitation services), employ-
12 ers, or other individuals who provide services to,
13 employ, or are otherwise substantially involved
14 in the major life functions of such child.

15 “(3) CHILD WITH A DISABILITY.—

16 “(A) IN GENERAL.—The term ‘child with a
17 disability’ means a child—

18 “(i) with mental retardation, hearing
19 impairments (including deafness), speech
20 or language impairments, visual impair-
21 ments (including blindness), serious emo-
22 tional disturbance (hereinafter referred to
23 as ‘emotional disturbance’), orthopedic im-
24 pairments, autism, traumatic brain injury,



1 other health impairments, or specific learn-
2 ing disabilities; and

3 “(ii) who, by reason thereof, needs
4 special education and related services.

5 “(B) CHILD AGED 3 THROUGH 9.—The
6 term ‘child with a disability’ for a child aged 3
7 through 9 or any subset of that age range, in-
8 cluding ages 3 through 5, may, at the discretion
9 of the State and the local educational agency,
10 include a child—

11 “(i) experiencing developmental
12 delays, as defined by the State and as
13 measured by appropriate diagnostic instru-
14 ments and procedures, in one or more of
15 the following areas: physical development,
16 cognitive development, communication de-
17 velopment, social or emotional develop-
18 ment, or adaptive development; and

19 “(ii) who, by reason thereof, needs
20 special education and related services.

21 “(4) EDUCATIONAL SERVICE AGENCY.—The
22 term ‘educational service agency’—

23 “(A) means a regional public multiservice
24 agency—



1 “(i) authorized by State law to de-
2 velop, manage, and provide services or pro-
3 grams to local educational agencies; and

4 “(ii) recognized as an administrative
5 agency for purposes of the provision of
6 special education and related services pro-
7 vided within public elementary and sec-
8 ondary schools of the State; and

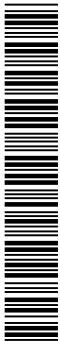
9 “(B) includes any other public institution
10 or agency having administrative control and di-
11 rection over a public elementary or secondary
12 school.

13 “(5) ELEMENTARY SCHOOL.—The term ‘ele-
14 mentary school’ means a nonprofit institutional day
15 or residential school that provides elementary edu-
16 cation, as determined under State law.

17 “(6) EQUIPMENT.—The term ‘equipment’
18 includes—

19 “(A) machinery, utilities, and built-in
20 equipment and any necessary enclosures or
21 structures to house such machinery, utilities, or
22 equipment; and

23 “(B) all other items necessary for the
24 functioning of a particular facility as a facility
25 for the provision of educational services, includ-



1 ing items such as instructional equipment and
2 necessary furniture; printed, published, and
3 audio-visual instructional materials; tele-
4 communications, sensory, and other techno-
5 logical aids and devices; and books, periodicals,
6 documents, and other related materials.

7 “(7) EXCESS COSTS.—The term ‘excess costs’
8 means those costs that are in excess of the average
9 annual per-student expenditure in a local edu-
10 cational agency during the preceding school year for
11 an elementary or secondary school student, as may
12 be appropriate, and which shall be computed after
13 deducting—

14 “(A) amounts received—

15 “(i) under part B of this title;

16 “(ii) under part A of title I of the El-
17 elementary and Secondary Education Act of
18 1965; and

19 “(iii) under title III of that Act; and

20 “(B) any State or local funds expended for
21 programs that would qualify for assistance
22 under any of the provisions of law described in
23 subparagraph (A).

24 “(8) FREE APPROPRIATE PUBLIC EDU-
25 CATION.—The term ‘free appropriate public edu-



1 cation' means special education and related services
2 that—

3 “(A) have been provided at public expense,
4 under public supervision and direction, and
5 without charge;

6 “(B) meet the standards of the State edu-
7 cational agency;

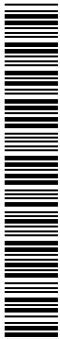
8 “(C) include an appropriate preschool, ele-
9 mentary, or secondary school education in the
10 State involved; and

11 “(D) are provided in conformity with the
12 individualized education program required
13 under section 614(d).

14 “(9) HIGHLY QUALIFIED.—The term ‘highly
15 qualified’ has the same meaning as that term in sec-
16 tion 9101 of the Elementary and Secondary Edu-
17 cation Act of 1965.

18 “(10) INDIAN.—The term ‘Indian’ means an in-
19 dividual who is a member of an Indian tribe.

20 “(11) INDIAN TRIBE.—The term ‘Indian tribe’
21 means any Federal or State Indian tribe, band,
22 rancheria, pueblo, colony, or community, including
23 any Alaska Native village or regional village corpora-
24 tion (as defined in or established under the Alaska
25 Native Claims Settlement Act).



1 “(12) INDIVIDUALIZED EDUCATION PRO-
2 GRAM.—The term ‘individualized education program’
3 or ‘IEP’ means a written statement for each child
4 with a disability that is developed, reviewed, and re-
5 vised in accordance with section 614(d).

6 “(13) INDIVIDUALIZED FAMILY SERVICE
7 PLAN.—The term ‘individualized family service plan’
8 has the meaning given such term in section 636.

9 “(14) INFANT OR TODDLER WITH A DIS-
10 ABILITY.—The term ‘infant or toddler with a dis-
11 ability’ has the meaning given such term in section
12 632.

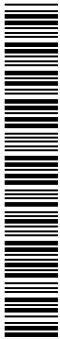
13 “(15) INSTITUTION OF HIGHER EDUCATION.—
14 The term ‘institution of higher education’—

15 “(A) has the meaning given that term in
16 subsection (a) or (b) of section 101 of the
17 Higher Education Act of 1965; and

18 “(B) also includes any community college
19 receiving funding from the Secretary of the In-
20 terior under the Tribally Controlled Community
21 College Assistance Act of 1978.

22 “(16) LOCAL EDUCATIONAL AGENCY.—

23 “(A) The term ‘local educational agency’
24 means a public board of education or other pub-
25 lic authority legally constituted within a State



1 for either administrative control or direction of,
2 or to perform a service function for, public ele-
3 mentary or secondary schools in a city, county,
4 township, school district, or other political sub-
5 division of a State, or for such combination of
6 school districts or counties as are recognized in
7 a State as an administrative agency for its pub-
8 lic elementary or secondary schools.

9 “(B) The term includes—

10 “(i) an educational service agency, as
11 defined in paragraph (4); and

12 “(ii) any other public institution or
13 agency having administrative control and
14 direction of a public elementary or sec-
15 ondary school.

16 “(C) The term includes an elementary or
17 secondary school funded by the Bureau of In-
18 dian Affairs, but only to the extent that such
19 inclusion makes the school eligible for programs
20 for which specific eligibility is not provided to
21 the school in another provision of law and the
22 school does not have a student population that
23 is smaller than the student population of the
24 local educational agency receiving assistance
25 under this Act with the smallest student popu-



1 lation, except that the school shall not be sub-
2 ject to the jurisdiction of any State educational
3 agency other than the Bureau of Indian Affairs.

4 “(17) NATIVE LANGUAGE.—The term ‘native
5 language’, when used with reference to an individual
6 of limited English proficiency, means the language
7 normally used by the individual, or in the case of a
8 child, the language normally used by the parents of
9 the child.

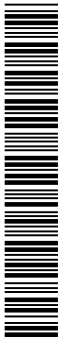
10 “(18) NONPROFIT.—The term ‘nonprofit’, as
11 applied to a school, agency, organization, or institu-
12 tion, means a school, agency, organization, or insti-
13 tution owned and operated by one or more nonprofit
14 corporations or associations no part of the net earn-
15 ings of which inures, or may lawfully inure, to the
16 benefit of any private shareholder or individual.

17 “(19) OUTLYING AREA.—The term ‘outlying
18 area’ means the United States Virgin Islands,
19 Guam, American Samoa, and the Commonwealth of
20 the Northern Mariana Islands.

21 “(20) PARENT.—The term ‘parent’—

22 “(A) includes a legal guardian; and

23 “(B) except as used in sections 615(b)(2)
24 and 639(a)(5), includes an individual assigned



1 under either of those sections to be a surrogate
2 parent.

3 “(21) PARENT ORGANIZATION.—The term ‘par-
4 ent organization’ has the meaning given that term in
5 section 672(g).

6 “(22) PARENT AND COMMUNITY TRAINING AND
7 INFORMATION CENTER.—The term ‘parent and com-
8 munity training and information center’ means a
9 center assisted under section 672.

10 “(23) RELATED SERVICES.—The term ‘related
11 services’ means transportation, and such develop-
12 mental, corrective, and other supportive services (in-
13 cluding speech-language pathology and audiology
14 services, psychological services, physical and occupa-
15 tional therapy, recreation, including therapeutic
16 recreation, social work services, counseling services,
17 including rehabilitation counseling, orientation and
18 mobility services, and medical services, except that
19 such medical services shall be for diagnostic and
20 evaluation purposes only) as may be required to as-
21 sist a child with a disability to benefit from special
22 education, and includes the early identification and
23 assessment of disabling conditions in children.

24 “(24) SECONDARY SCHOOL.—The term ‘sec-
25 ondary school’ means a nonprofit institutional day or



1 residential school that provides secondary education,
2 as determined under State law, except that it does
3 not include any education beyond grade 12.

4 “(25) SECRETARY.—The term ‘Secretary’
5 means the Secretary of Education.

6 “(26) SPECIAL EDUCATION.—The term ‘special
7 education’ means specially designed instruction, at
8 no cost to parents, to meet the unique needs of a
9 child with a disability, including—

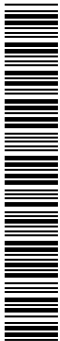
10 “(A) instruction conducted in the class-
11 room, in the home, in hospitals and institutions,
12 and in other settings; and

13 “(B) instruction in physical education.

14 “(27) SPECIFIC LEARNING DISABILITY.—

15 “(A) IN GENERAL.—The term ‘specific
16 learning disability’ means a disorder in one or
17 more of the basic psychological processes in-
18 volved in understanding or in using language,
19 spoken or written, which disorder may manifest
20 itself in imperfect ability to listen, think, speak,
21 read, write, spell, or do mathematical calcula-
22 tions.

23 “(B) DISORDERS INCLUDED.—Such term
24 includes such conditions as perceptual disabil-



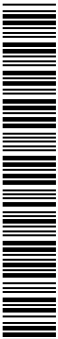
1 ities, brain injury, minimal brain dysfunction,
2 dyslexia, and developmental aphasia.

3 “(C) DISORDERS NOT INCLUDED.—Such
4 term does not include a learning problem that
5 is primarily the result of visual, hearing, or
6 motor disabilities, of mental retardation, of
7 emotional disturbance, or of environmental, cul-
8 tural, or economic disadvantage.

9 “(28) STATE.—The term ‘State’ means each of
10 the 50 States, the District of Columbia, the Com-
11 monwealth of Puerto Rico, and each of the outlying
12 areas.

13 “(29) STATE EDUCATIONAL AGENCY.—The
14 term ‘State educational agency’ means the State
15 board of education or other agency or officer pri-
16 marily responsible for the State supervision of public
17 elementary and secondary schools, or, if there is no
18 such officer or agency, an officer or agency des-
19 ignated by the Governor or by State law.

20 “(30) SUPPLEMENTARY AIDS AND SERVICES.—
21 The term ‘supplementary aids and services’ means
22 aids, services, and other supports that are provided
23 in regular education classes or other education-re-
24 lated settings to enable children with disabilities to
25 be educated with nondisabled children to the max-



1 imum extent appropriate in accordance with section
2 612(a)(5).

3 “(31) TRANSITION SERVICES.—The term ‘tran-
4 sition services’ means a coordinated set of activities
5 for a child with a disability that—

6 “(A) is designed within a results-oriented
7 process, that is focused on improving the aca-
8 demic and developmental achievement of the
9 child with a disability to facilitate the child’s
10 move from school to post-school activities, in-
11 cluding post-secondary education, vocational
12 training, integrated employment (including sup-
13 ported employment), continuing and adult edu-
14 cation, adult services, independent living, or
15 community participation;

16 “(B) is based upon the individual child’s
17 needs, taking into account the child’s skills,
18 preferences, and interests; and

19 “(C) includes instruction, related services,
20 community experiences, the development of em-
21 ployment and other post-school adult living ob-
22 jectives, and, when appropriate, acquisition of
23 daily living skills and functional vocational eval-
24 uation.



1 **“SEC. 603. OFFICE OF SPECIAL EDUCATION PROGRAMS.**

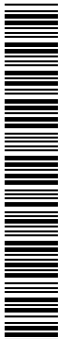
2 “(a) ESTABLISHMENT.—There shall be, within the
3 Office of Special Education and Rehabilitative Services in
4 the Department of Education, an Office of Special Edu-
5 cation Programs, which shall be the principal agency in
6 such Department for administering and carrying out this
7 Act and other programs and activities concerning the edu-
8 cation of children with disabilities.

9 “(b) DIRECTOR.—The Office established under sub-
10 section (a) shall be headed by a Director who shall be se-
11 lected by the Secretary and shall report directly to the As-
12 sistant Secretary for Special Education and Rehabilitative
13 Services.

14 “(c) VOLUNTARY AND UNCOMPENSATED SERV-
15 ICES.—Notwithstanding section 1342 of title 31, United
16 States Code, the Secretary is authorized to accept vol-
17 untary and uncompensated services in furtherance of the
18 purposes of this Act.”.

19 **SEC. 102. SECTIONS 605 THROUGH 607 OF THE INDIVIDUALS**
20 **WITH DISABILITIES EDUCATION ACT.**

21 Sections 605 through 607 of the Individuals with
22 Disabilities Education Act (20 U.S.C. 1404–1406) are
23 amended to read as follows:



1 **“SEC. 605. ACQUISITION OF EQUIPMENT; CONSTRUCTION**
2 **OR ALTERATION OF FACILITIES.**

3 “(a) IN GENERAL.—If the Secretary determines that
4 a program authorized under this Act would be improved
5 by permitting program funds to be used to acquire appro-
6 priate equipment, or to construct new facilities or alter
7 existing facilities, the Secretary is authorized to allow the
8 use of those funds for those purposes.

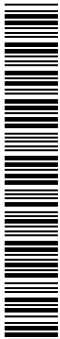
9 “(b) COMPLIANCE WITH CERTAIN REGULATIONS.—
10 Any construction of new facilities or alteration of existing
11 facilities under subsection (a) shall comply with the re-
12 quirements of—

13 “(1) appendix A of part 36 of title 28, Code of
14 Federal Regulations (commonly known as the
15 ‘Americans with Disabilities Accessibility Guidelines
16 for Buildings and Facilities’); or

17 “(2) appendix A of part 101-19.6 of title 41,
18 Code of Federal Regulations (commonly known as
19 the ‘Uniform Federal Accessibility Standards’).

20 **“SEC. 606. EMPLOYMENT OF INDIVIDUALS WITH DISABIL-**
21 **ITIES.**

22 “The Secretary shall ensure that each recipient of as-
23 sistance under this Act makes positive efforts to employ
24 and advance in employment qualified individuals with dis-
25 abilities, particularly as teachers, related services per-



1 sonnel, early intervention providers, and administrators,
2 in programs assisted under this Act.

3 **“SEC. 607. REQUIREMENTS FOR PRESCRIBING REGULA-**
4 **TIONS.**

5 “(a) IN GENERAL.—The Secretary may issue regula-
6 tions under this Act only to the extent that such regula-
7 tions are reasonably necessary to ensure that there is com-
8 pliance with the specific requirements of this Act.

9 “(b) PROTECTIONS PROVIDED TO CHILDREN.—The
10 Secretary may not implement, or publish in final form,
11 any regulation prescribed pursuant to this Act that
12 would—

13 “(1) violate or contradict any provision of this
14 Act; and

15 “(2) procedurally or substantively lessen the
16 protections provided to children with disabilities
17 under this Act, as embodied in regulations in effect
18 on July 20, 1983 (particularly as such protections
19 relate to parental consent to initial evaluation or ini-
20 tial placement in special education, least restrictive
21 environment, related services, timelines, attendance
22 of evaluation personnel at individualized education
23 program meetings, or qualifications of personnel),
24 except to the extent that such regulation reflects the



1 clear and unequivocal intent of the Congress in legis-
2 lation.

3 “(c) PUBLIC COMMENT PERIOD.—The Secretary
4 shall provide a public comment period of at least 60 days
5 on any regulation proposed under part B or part C of this
6 Act on which an opportunity for public comment is other-
7 wise required by law.

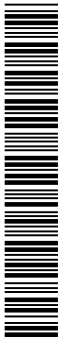
8 “(d) POLICY LETTERS AND STATEMENTS.—The Sec-
9 retary may not issue policy letters or other statements (in-
10 cluding on issues of national significance) that—

11 “(1) would violate or contradict any provision of
12 this Act; or

13 “(2) establish a rule that is required for compli-
14 ance with, and eligibility under, this Act without fol-
15 lowing the requirements of section 553 of title 5,
16 United States Code.

17 “(e) CORRESPONDENCE FROM DEPARTMENT OF
18 EDUCATION DESCRIBING INTERPRETATIONS OF THIS
19 PART.—

20 “(1) IN GENERAL.—The Secretary shall, on a
21 quarterly basis, publish in the Federal Register, and
22 widely disseminate to interested entities through var-
23 ious additional forms of communication, a list of
24 correspondence from the Department of Education
25 received by individuals during the previous quarter



1 that describes the interpretations of the Department
2 of Education of this Act or the regulations imple-
3 mented pursuant to this Act.

4 “(2) ADDITIONAL INFORMATION.—For each
5 item of correspondence published in a list under
6 paragraph (1), the Secretary shall—

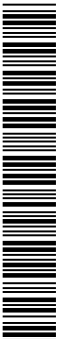
7 “(A) identify the topic addressed by the
8 correspondence and shall include such other
9 summary information as the Secretary deter-
10 mines to be appropriate; and

11 “(B) ensure that all such correspondence
12 is issued, where applicable, in compliance with
13 section 553 of title 5, United States Code.

14 “(f) EXPLANATION AND ASSURANCES.—Any written
15 response by the Secretary under subsection (e) regarding
16 a policy, question, or interpretation under this Act shall
17 include an explanation in the written response that the
18 response—

19 “(1) is issued, when required, in compliance
20 with the requirements of section 553 of title 5,
21 United States Code; and

22 “(2) is provided as informal guidance and rep-
23 resents only the interpretation by the Department of
24 Education of the applicable statutory or regulatory



1 requirements in the context of the specific facts pre-
2 sented in the original question.”.

3 **SEC. 103. SECTION 608 OF THE INDIVIDUALS WITH DISABIL-**
4 **ITIES EDUCATION ACT.**

5 Part A of the Individuals with Disabilities Education
6 Act (20 U.S.C. 1400 et seq.) is amended by adding at
7 the end the following:

8 **“SEC. 608. STATE ADMINISTRATION.**

9 “(a) RULEMAKING.—Each State that receives funds
10 under this Act shall—

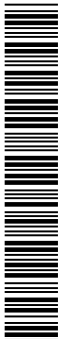
11 “(1) ensure that any State rules, regulations,
12 and policies relating to this Act conform to the pur-
13 poses of this Act; and

14 “(2) minimize the number of rules, regulations,
15 and policies to which the State’s local educational
16 agencies and schools are subject to under this Act.

17 “(b) SUPPORT AND FACILITATION.—All State rules,
18 regulations, and policies relating to this Act shall support
19 and facilitate local educational agency and school-level sys-
20 temic reform designed to enable children with disabilities
21 to meet the challenging State student academic achieve-
22 ment standards.”.

23 **SEC. 104. GAO REVIEW; REPORT.**

24 (a) REVIEW.—The Comptroller General shall conduct
25 a review of all Federal requirements under the Individuals



1 with Disabilities Education Act, and the requirements of
2 a reasonable sample of State and local educational agen-
3 cies relating to such Act, to determine which requirements
4 result in excessive paperwork completion burdens for
5 teachers, related services providers, and school administra-
6 tors.

7 (b) REPORT.—Not later than 2 years after the date
8 of the enactment of this Act, the Comptroller General shall
9 prepare and submit to Congress a report that contains the
10 results of the review under subsection (a).

11 **TITLE II—ASSISTANCE FOR EDU-**
12 **CATION OF ALL CHILDREN**
13 **WITH DISABILITIES**

14 **SEC. 201. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
15 **AUTHORIZATION OF APPROPRIATIONS.**

16 Section 611 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1411) is amended to read as follows:

18 **“SEC. 611. AUTHORIZATION; ALLOTMENT; USE OF FUNDS;**
19 **AUTHORIZATION OF APPROPRIATIONS.**

20 “(a) GRANTS TO STATES.—

21 “(1) PURPOSE OF GRANTS.—The Secretary
22 shall make grants to States and the outlying areas,
23 and provide funds to the Secretary of the Interior,
24 to assist them to provide special education and re-



1 lated services to children with disabilities in accord-
2 ance with this part.

3 “(2) MAXIMUM AMOUNTS.—The maximum
4 amount of the grant a State may receive under this
5 section for any fiscal year is—

6 “(A) the number of children with disabil-
7 ities in the State who are receiving special edu-
8 cation and related services—

9 “(i) aged 3 through 5 if the State is
10 eligible for a grant under section 619; and

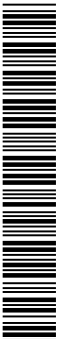
11 “(ii) aged 6 through 21; multiplied by

12 “(B) 40 percent of the average per-pupil
13 expenditure in public elementary and secondary
14 schools in the United States.

15 “(3) LIMITATION.—Notwithstanding subpara-
16 graphs (A) and (B) of paragraph (2), the maximum
17 amount of the grant a State may receive under this
18 section for a fiscal year may not be based on the
19 number of children ages 3 through 17, inclusive, in
20 excess of 12 percent of the number of all children
21 in that age range in the State.

22 “(b) OUTLYING AREAS.—

23 “(1) FUNDS RESERVED.—From the amount ap-
24 propriated for any fiscal year under subsection (j),
25 the Secretary shall reserve not more than one per-



1 cent, which shall be used to provide assistance to the
2 outlying areas in accordance with their respective
3 populations of individuals aged 3 through 21.

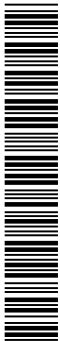
4 “(2) SPECIAL RULE.—The provisions of Public
5 Law 95–134, permitting the consolidation of grants
6 by the outlying areas, shall not apply to funds pro-
7 vided to those areas under this section.

8 “(c) SECRETARY OF THE INTERIOR.—From the
9 amount appropriated for any fiscal year under subsection
10 (j), the Secretary shall reserve 1.226 percent to provide
11 assistance to the Secretary of the Interior in accordance
12 with subsection (i).

13 “(d) ALLOCATIONS TO STATES.—

14 “(1) IN GENERAL.—After reserving funds for
15 payments to the outlying areas and the Secretary of
16 the Interior under subsections (b) and (c), the Sec-
17 retary shall allocate the remaining amount among
18 the States in accordance with this subsection.

19 “(2) SPECIAL RULE FOR USE OF FISCAL YEAR
20 1999 AMOUNT.—If a State does not make a free ap-
21 propriate public education available to all children
22 with disabilities aged 3 through 5 in the State in
23 any fiscal year, the Secretary shall compute the
24 State’s amount for fiscal year 1999, solely for the
25 purpose of calculating the State’s allocation in the



1 subsequent year under paragraph (3) or (4), by sub-
2 tracting the amount allocated to the State for fiscal
3 year 1999 on the basis of those children.

4 “(3) INCREASE IN FUNDS.—If the amount
5 available for allocations to States under paragraph
6 (1) is greater than the amount allocated to the
7 States under this paragraph for the preceding fiscal
8 year, those allocations shall be calculated as follows:

9 “(A)(i) Except as provided in subpara-
10 graph (B), the Secretary shall allocate—

11 “(I) to each State the amount it re-
12 ceived for fiscal year 1999;

13 “(II) 85 percent of any remaining
14 funds to States on the basis of their rel-
15 ative populations of children aged 3
16 through 21 who are of the same age as
17 children with disabilities for whom the
18 State ensures the availability of a free ap-
19 propriate public education under this part;
20 and

21 “(III) 15 percent of those remaining
22 funds to States on the basis of their rel-
23 ative populations of children described in
24 subclause (II) who are living in poverty.



1 “(ii) For the purpose of making grants
2 under this paragraph, the Secretary shall use
3 the most recent population data, including data
4 on children living in poverty, that are available
5 and satisfactory to the Secretary.

6 “(B) Notwithstanding subparagraph (A), allo-
7 cations under this paragraph shall be subject to the
8 following:

9 “(i) No State’s allocation shall be less
10 than its allocation for the preceding fiscal
11 year.

12 “(ii) No State’s allocation shall be less
13 than the greatest of—

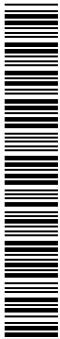
14 “(I) the sum of—

15 “(aa) the amount it received
16 for fiscal year 1999; and

17 “(bb) one third of one per-
18 cent of the amount by which the
19 amount appropriated under sub-
20 section (j) exceeds the amount
21 appropriated under this section
22 for fiscal year 1999;

23 “(II) the sum of—

24 “(aa) the amount it received
25 for the preceding fiscal year; and



1 “(bb) that amount multi-
2 plied by the percentage by which
3 the increase in the funds appro-
4 priated from the preceding fiscal
5 year exceeds 1.5 percent; or

6 “(III) the sum of—

7 “(aa) the amount it received
8 for the preceding fiscal year; and

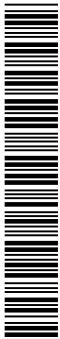
9 “(bb) that amount multi-
10 plied by 90 percent of the per-
11 centage increase in the amount
12 appropriated from the preceding
13 fiscal year.

14 “(iii) Notwithstanding clause (ii), no
15 State’s allocation under this paragraph
16 shall exceed the sum of—

17 “(I) the amount it received for
18 the preceding fiscal year; and

19 “(II) that amount multiplied by
20 the sum of 1.5 percent and the per-
21 centage increase in the amount appro-
22 priated.

23 “(C) If the amount available for allocations
24 under this paragraph is insufficient to pay
25 those allocations in full, those allocations shall



1 be ratably reduced, subject to subparagraph
2 (B)(i).

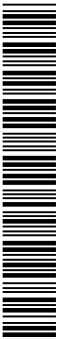
3 “(4) DECREASE IN FUNDS.—If the amount
4 available for allocations to States under paragraph
5 (1) is less than the amount allocated to the States
6 under this section for the preceding fiscal year, those
7 allocations shall be calculated as follows:

8 “(A) If the amount available for allocations
9 is greater than the amount allocated to the
10 States for fiscal year 1999, each State shall be
11 allocated the sum of—

12 (i) the amount it received for fiscal
13 year 1999; and

14 (ii) an amount that bears the same re-
15 lation to any remaining funds as the in-
16 crease the State received for the preceding
17 fiscal year over fiscal year 1999 bears to
18 the total of all such increases for all
19 States.

20 “(B)(i) If the amount available for alloca-
21 tions is equal to or less than the amount allo-
22 cated to the States for fiscal year 1999, each
23 State shall be allocated the amount it received
24 for fiscal year 1999.



1 “(ii) If the amount available is insufficient
2 to make the allocations described in clause (i),
3 those allocations shall be ratably reduced.

4 “(f) STATE-LEVEL ACTIVITIES.—

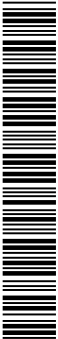
5 “(1) IN GENERAL.—

6 “(A) Each State may retain not more than
7 the amount described in subparagraph (B) for
8 administration and other State-level activities in
9 accordance with paragraphs (2) and (3).

10 “(B) For each fiscal year, the Secretary
11 shall determine and report to the State edu-
12 cational agency an amount that is 25 percent of
13 the amount the State received under this sec-
14 tion for fiscal year 1997, cumulatively adjusted
15 by the Secretary for each succeeding fiscal year
16 by the lesser of—

17 “(i) the percentage increase, if any,
18 from the preceding fiscal year in the
19 State’s allocation under this section; or

20 “(ii) the rate of inflation, as measured
21 by the percentage increase, if any, from
22 the preceding fiscal year in the Consumer
23 Price Index For All Urban Consumers,
24 published by the Bureau of Labor Statis-
25 tics of the Department of Labor.



1 “(C) A State may use funds it retains
2 under subparagraph (A) without regard to—

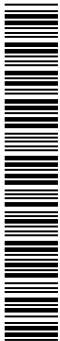
3 “(i) the prohibition on commingling of
4 funds in section 612(a)(18)(B); and

5 “(ii) the prohibition on supplanting
6 other funds in section 612(a)(18)(C).

7 “(2) STATE ADMINISTRATION.—

8 “(A) For the purpose of administering this
9 part, including section 619 (including the co-
10 ordination of activities under this part with,
11 and providing technical assistance to, other pro-
12 grams that provide services to children with dis-
13 abilities)—

14 “(i) each State may use not more
15 than twenty percent of the maximum
16 amount it may retain under paragraph
17 (1)(A) for any fiscal year or \$500,000 (ad-
18 justed by the cumulative rate of inflation
19 since fiscal year 1998, as measured by the
20 percentage increase, if any, in the Con-
21 sumer Price Index For All Urban Con-
22 sumers, published by the Bureau of Labor
23 Statistics of the Department of Labor),
24 whichever is greater; and



1 “(ii) each outlying area may use up to
2 five percent of the amount it receives
3 under this section for any fiscal year or
4 \$35,000 (adjusted by the cumulative rate
5 of inflation since fiscal year 1998, as meas-
6 ured by the percentage increase, if any, in
7 the Consumer Price Index For All Urban
8 Consumers, published by the Bureau of
9 Labor Statistics of the Department of
10 Labor), whichever is greater.

11 “(B) Funds described in subparagraph (A)
12 may also be used for the administration of part
13 C of this Act, if the State educational agency
14 is the lead agency for the State under that
15 part.

16 “(3) OTHER STATE-LEVEL ACTIVITIES.—Each
17 State shall use any funds it retains under paragraph
18 (1) and does not use for administration under para-
19 graph (2) for any of the following:

20 “(A) Support and direct services, including
21 technical assistance and personnel development
22 and training.

23 “(B) Administrative costs of monitoring
24 and complaint investigation.



1 “(C) To establish and implement the medi-
2 ation and voluntary binding arbitration proc-
3 esses required by section 612(a)(17) and
4 615(e), including providing for the costs of me-
5 diators, arbitrators, and support personnel.

6 “(D) To assist local educational agencies
7 in meeting personnel shortages.

8 “(E) Activities at the State and local levels
9 to meet the performance goals established by
10 the State under section 612(a)(15) and to sup-
11 port implementation of the State plan under
12 subpart 1 of part D if the State receives funds
13 under that subpart.

14 “(F) To support paperwork reduction ac-
15 tivities, including expanding the appropriate use
16 of technology in the IEP process under this
17 part.

18 “(G) To develop and maintain a com-
19 prehensive, coordinated, prereferral educational
20 support system for students in kindergarten
21 through grade 12 (with a particular emphasis
22 on students in kindergarten through grade 3)
23 who are not enrolled in special education but
24 who need additional academic and behavioral



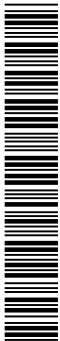
1 support to succeed in a general education envi-
2 ronment.

3 “(H) To support capacity building activi-
4 ties and improve the delivery of services by local
5 educational agencies to improve results for chil-
6 dren with disabilities.

7 “(I) To establish and implement cost or
8 risk sharing funds, consortia, or cooperatives to
9 assist local educational agencies in providing
10 high cost special education and related services.

11 “(J) For subgrants to local educational
12 agencies for the purposes described in para-
13 graph (4)(A).

14 “(4)(A) SUBGRANTS TO LOCAL EDUCATIONAL
15 AGENCIES FOR ACCOUNTABILITY.—In any fiscal year
16 in which the percentage increase in the State’s allo-
17 cation under this section exceeds the rate of inflation
18 (as measured by the percentage increase, if any,
19 from the preceding fiscal year in the Consumer Price
20 Index For All Urban Consumers, published by the
21 Bureau of Labor Statistics of the Department of
22 Labor), each State shall reserve, from its allocation
23 under this section, the amount described in subpara-
24 graph (B) to make subgrants to local educational
25 agencies, unless that amount is less than \$100,000,



1 to provide technical assistance and direct services to
2 local educational agencies identified as being in need
3 of improvement under section 1116 of the Elemen-
4 tary and Secondary Education Act of 1965 on the
5 basis, in whole or in part, of the assessment results
6 of the disaggregated subgroup of students with dis-
7 abilities.

8 “(B) MAXIMUM SUBGRANT.—For each fiscal
9 year, the amount referred to in subparagraph (A)
10 is—

11 “(i) the maximum amount the State was
12 allowed to retain under paragraph (1)(A) for
13 the prior fiscal year, or for fiscal year 1998, 25
14 percent of the State’s allocation for fiscal year
15 1997 under this section; multiplied by

16 “(ii) the difference between the percentage
17 increase in the State’s allocation under this sec-
18 tion and the rate of inflation, as measured by
19 the percentage increase, if any, from the pre-
20 ceding fiscal year in the Consumer Price Index
21 For All Urban Consumers, published by the
22 Bureau of Labor Statistics of the Department
23 of Labor.

24 “(5) REPORT ON USE OF FUNDS.—As part of
25 the information required to be submitted to the Sec-



1 retary under section 612, each State shall annually
2 describe—

3 “(A) how amounts retained under para-
4 graph (1) will be used to meet the requirements
5 of this part;

6 “(B) how those amounts will be allocated
7 among the activities described in this subsection
8 to meet State priorities based on input from
9 local educational agencies; and

10 “(C) the percentage of those amounts, if
11 any, that will be distributed to local educational
12 agencies by formula.

13 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
14 CIES.—

15 “(1) SUBGRANTS REQUIRED.—Each State that
16 receives a grant under this section for any fiscal
17 year shall distribute any funds it does not retain
18 under subsection (f) (at least 88 percent of the
19 grant funds) to local educational agencies, including
20 public charter schools that operate as local edu-
21 cational agencies, in the State that have established
22 their eligibility under section 613, for use in accord-
23 ance with this part.

24 “(2) PROCEDURE FOR ALLOCATIONS TO LOCAL
25 EDUCATIONAL AGENCIES.—For each fiscal year for



1 which funds are allocated to States under subsection
2 (e), each State shall allocate funds under paragraph
3 (1) as follows:

4 “(A) BASE PAYMENTS.—The State shall
5 first award each agency described in paragraph
6 (1) the amount that agency would have received
7 under this section for fiscal year 1999, if the
8 State had distributed 75 percent of its grant for
9 that year under section 611(d), as then in ef-
10 fect.

11 “(B) ALLOCATION OF REMAINING
12 FUNDS.—After making allocations under sub-
13 paragraph (A), the State shall—

14 “(i) allocate 85 percent of any re-
15 maining funds to those agencies on the
16 basis of the relative numbers of children
17 enrolled in public and private elementary
18 and secondary schools within the agency’s
19 jurisdiction; and

20 “(ii) allocate 15 percent of those re-
21 maining funds to those agencies in accord-
22 ance with their relative numbers of chil-
23 dren living in poverty, as determined by
24 the State educational agency.



1 “(3) REALLOCATION OF FUNDS.—If a State
2 educational agency determines that a local edu-
3 cational agency is adequately providing a free appro-
4 priate public education to all children with disabil-
5 ities residing in the area served by that agency with
6 State and local funds, the State educational agency
7 may reallocate any portion of the funds under this
8 part that are not needed by that local agency to pro-
9 vide a free appropriate public education to other
10 local educational agencies in the State that are not
11 adequately providing special education and related
12 services to all children with disabilities residing in
13 the areas they serve.

14 “(h) DEFINITIONS.—For the purpose of this
15 section—

16 “(1) the term ‘average per-pupil expenditure in
17 public elementary and secondary schools in the
18 United States’ means—

19 “(A) without regard to the source of
20 funds—

21 “(i) the aggregate current expendi-
22 tures, during the second fiscal year pre-
23 ceding the fiscal year for which the deter-
24 mination is made (or, if satisfactory data
25 for that year are not available, during the



1 most recent preceding fiscal year for which
2 satisfactory data are available) of all local
3 educational agencies in the 50 States and
4 the District of Columbia); plus

5 “(ii) any direct expenditures by the
6 State for the operation of those agencies;
7 divided by

8 “(B) the aggregate number of children in
9 average daily attendance to whom those agen-
10 cies provided free public education during that
11 preceding year; and

12 “(2) the term ‘State’ means each of the 50
13 States, the District of Columbia, and the Common-
14 wealth of Puerto Rico.

15 “(i) USE OF AMOUNTS BY SECRETARY OF THE INTE-
16 RIOR.—

17 “(1) PROVISION OF AMOUNTS FOR ASSIST-
18 ANCE.—

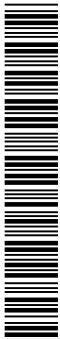
19 “(A) IN GENERAL.—The Secretary of Edu-
20 cation shall provide amounts to the Secretary of
21 the Interior to meet the need for assistance for
22 the education of children with disabilities on
23 reservations aged 5 to 21, inclusive, enrolled in
24 elementary and secondary schools for Indian
25 children operated or funded by the Secretary of



1 the Interior. The amount of such payment for
2 any fiscal year shall be equal to 80 percent of
3 the amount allotted under subsection (c) for
4 that fiscal year.

5 “(B) CALCULATION OF NUMBER OF CHIL-
6 DREN.—In the case of Indian students aged 3
7 to 5, inclusive, who are enrolled in programs af-
8 filiated with the Bureau of Indian Affairs (here-
9 after in this subsection referred to as ‘BIA’)
10 schools and that are required by the States in
11 which such schools are located to attain or
12 maintain State accreditation, and which schools
13 have such accreditation prior to the date of en-
14 actment of the Individuals with Disabilities
15 Education Act Amendments of 1991, the school
16 shall be allowed to count those children for the
17 purpose of distribution of the funds provided
18 under this paragraph to the Secretary of the
19 Interior. The Secretary of the Interior shall be
20 responsible for meeting all of the requirements
21 of this part for these children, in accordance
22 with paragraph (2).

23 “(C) ADDITIONAL REQUIREMENT.—With
24 respect to all other children aged 3 to 21, inclu-
25 sive, on reservations, the State educational



1 agency shall be responsible for ensuring that all
2 of the requirements of this part are imple-
3 mented.

4 “(2) SUBMISSION OF INFORMATION.—The Sec-
5 retary of Education may provide the Secretary of
6 the Interior amounts under paragraph (1) for a fis-
7 cal year only if the Secretary of the Interior submits
8 to the Secretary of Education information that—

9 “(A) demonstrates that the Department of
10 the Interior meets the appropriate require-
11 ments, as determined by the Secretary of Edu-
12 cation, of sections 612 (including monitoring
13 and evaluation activities) and 613;

14 “(B) includes a description of how the Sec-
15 retary of the Interior will coordinate the provi-
16 sion of services under this part with local edu-
17 cational agencies, tribes and tribal organiza-
18 tions, and other private and Federal service
19 providers;

20 “(C) includes an assurance that there are
21 public hearings, adequate notice of such hear-
22 ings, and an opportunity for comment afforded
23 to members of tribes, tribal governing bodies,
24 and affected local school boards before the



1 adoption of the policies, programs, and proce-
2 dures described in subparagraph (A);

3 “(D) includes an assurance that the Sec-
4 retary of the Interior will provide such informa-
5 tion as the Secretary of Education may require
6 to comply with section 618;

7 “(E) includes an assurance that the Sec-
8 retary of the Interior and the Secretary of
9 Health and Human Services have entered into
10 a memorandum of agreement, to be provided to
11 the Secretary of Education, for the coordination
12 of services, resources, and personnel between
13 their respective Federal, State, and local offices
14 and with State and local educational agencies
15 and other entities to facilitate the provision of
16 services to Indian children with disabilities re-
17 siding on or near reservations (such agreement
18 shall provide for the apportionment of respon-
19 sibilities and costs including, but not limited to,
20 child find, evaluation, diagnosis, remediation or
21 therapeutic measures, and (where appropriate)
22 equipment and medical or personal supplies as
23 needed for a child to remain in school or a pro-
24 gram); and

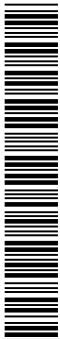


1 “(F) includes an assurance that the De-
2 partment of the Interior will cooperate with the
3 Department of Education in its exercise of
4 monitoring, enforcement, and oversight of this
5 application, and any agreements entered into
6 between the Secretary of the Interior and other
7 entities under this part, and will fulfill its du-
8 ties under this part.

9 Section 616(a) shall apply to the information de-
10 scribed in this paragraph.

11 “(3) PAYMENTS FOR EDUCATION AND SERVICES
12 FOR INDIAN CHILDREN WITH DISABILITIES AGED 3
13 THROUGH 5.—

14 “(A) IN GENERAL.—With funds appro-
15 priated under subsection (j), the Secretary of
16 Education shall make payments to the Sec-
17 retary of the Interior to be distributed to tribes
18 or tribal organizations (as defined under section
19 4 of the Indian Self-Determination and Edu-
20 cation Assistance Act) or consortia of the above
21 to provide for the coordination of assistance for
22 special education and related services for chil-
23 dren with disabilities aged 3 through 5 on res-
24 ervations served by elementary and secondary
25 schools for Indian children operated or funded

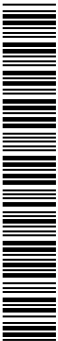


1 by the Department of the Interior. The amount
2 of such payments under subparagraph (B) for
3 any fiscal year shall be equal to 20 percent of
4 the amount allotted under subsection (c).

5 “(B) DISTRIBUTION OF FUNDS.—The Sec-
6 retary of the Interior shall distribute the total
7 amount of the payment under subparagraph
8 (A) by allocating to each tribe or tribal organi-
9 zation an amount based on the number of chil-
10 dren with disabilities ages 3 through 5 residing
11 on reservations as reported annually, divided by
12 the total of those children served by all tribes
13 or tribal organizations.

14 “(C) SUBMISSION OF INFORMATION.—To
15 receive a payment under this paragraph, the
16 tribe or tribal organization shall submit such
17 figures to the Secretary of the Interior as re-
18 quired to determine the amounts to be allocated
19 under subparagraph (B). This information shall
20 be compiled and submitted to the Secretary of
21 Education.

22 “(D) USE OF FUNDS.—The funds received
23 by a tribe or tribal organization shall be used
24 to assist in child find, screening, and other pro-
25 cedures for the early identification of children



1 aged 3 through 5, parent training, and the pro-
2 vision of direct services. These activities may be
3 carried out directly or through contracts or co-
4 operative agreements with the BIA, local edu-
5 cational agencies, and other public or private
6 nonprofit organizations. The tribe or tribal or-
7 ganization is encouraged to involve Indian par-
8 ents in the development and implementation of
9 these activities. The above entities shall, as ap-
10 propriate, make referrals to local, State, or
11 Federal entities for the provision of services or
12 further diagnosis.

13 “(E) ANNUAL REPORT.—To be eligible to
14 receive a grant pursuant to subparagraph (A),
15 the tribe or tribal organization shall provide to
16 the Secretary of the Interior an annual report
17 of activities undertaken under this paragraph,
18 including the number of contracts and coopera-
19 tive agreements entered into, the number of
20 children contacted and receiving services for
21 each year, and the estimated number of chil-
22 dren needing services during the year following
23 the one in which the report is made. The Sec-
24 retary of the Interior shall include a summary
25 of this information on an annual basis in the



1 report to the Secretary of Education required
2 under this subsection. The Secretary of Edu-
3 cation may require any additional information
4 from the Secretary of the Interior.

5 “(F) PROHIBITIONS.—None of the funds
6 allocated under this paragraph may be used by
7 the Secretary of the Interior for administrative
8 purposes, including child count and the provi-
9 sion of technical assistance.

10 “(4) PLAN FOR COORDINATION OF SERVICES.—
11 The Secretary of the Interior shall develop and im-
12 plement a plan for the coordination of services for
13 all Indian children with disabilities residing on res-
14 ervations covered under this Act. Such plan shall
15 provide for the coordination of services benefiting
16 these children from whatever source, including
17 tribes, the Indian Health Service, other BIA divi-
18 sions, and other Federal agencies. In developing the
19 plan, the Secretary of the Interior shall consult with
20 all interested and involved parties. It shall be based
21 on the needs of the children and the system best
22 suited for meeting those needs, and may involve the
23 establishment of cooperative agreements between the
24 BIA, other Federal agencies, and other entities. The
25 plan shall also be distributed upon request to States,



1 State and local educational agencies, and other
2 agencies providing services to infants, toddlers, and
3 children with disabilities, to tribes, and to other in-
4 terested parties.

5 “(5) ESTABLISHMENT OF ADVISORY BOARD.—
6 To meet the requirements of section 612(a)(22), the
7 Secretary of the Interior shall establish, under the
8 BIA, an advisory board composed of individuals in-
9 volved in or concerned with the education and provi-
10 sion of services to Indian infants, toddlers, children,
11 and youth with disabilities, including Indians with
12 disabilities, Indian parents or guardians of such chil-
13 dren, teachers, service providers, State and local
14 educational officials, representatives of tribes or trib-
15 al organizations, representatives from State Inter-
16 agency Coordinating Councils under section 641 in
17 States having reservations, and other members rep-
18 resenting the various divisions and entities of the
19 BIA. The chairperson shall be selected by the Sec-
20 retary of the Interior. The advisory board shall—

21 “(A) assist in the coordination of services
22 within the BIA and with other local, State, and
23 Federal agencies in the provision of education
24 for infants, toddlers, and children with disabil-
25 ities;



1 “(B) advise and assist the Secretary of the
2 Interior in the performance of the Secretary’s
3 responsibilities described in this subsection;

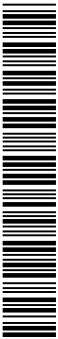
4 “(C) develop and recommend policies con-
5 cerning effective inter- and intra-agency collabo-
6 ration, including modifications to regulations,
7 and the elimination of barriers to inter- and
8 intra-agency programs and activities;

9 “(D) provide assistance and disseminate
10 information on best practices, effective program
11 coordination strategies, and recommendations
12 for improved educational programming for In-
13 dian infants, toddlers, and children with disabil-
14 ities; and

15 “(E) provide assistance in the preparation
16 of information required under paragraph
17 (2)(D).

18 “(6) ANNUAL REPORTS.—

19 “(A) IN GENERAL.—The advisory board
20 established under paragraph (5) shall prepare
21 and submit to the Secretary of the Interior and
22 to the Congress an annual report containing a
23 description of the activities of the advisory
24 board for the preceding year.



1 “(B) AVAILABILITY.—The Secretary of the
2 Interior shall make available to the Secretary of
3 Education the report described in subparagraph
4 (A).

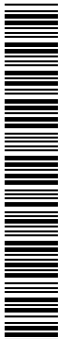
5 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
6 purpose of carrying out this part, other than section 619,
7 there are authorized to be appropriated—

8 “(1) \$10,301,184,000 for fiscal year 2004;
9 “(2) \$11,957,361,000 for fiscal year 2005;
10 “(3) \$13,879,812,000 for fiscal year 2006;
11 “(4) \$16,111,345,000 for fiscal year 2007;
12 “(5) \$18,701,654,000 for fiscal year 2008;
13 “(6) \$21,708,421,000 for fiscal year 2009;
14 “(7) \$25,198,603,000 for fiscal year 2010; and
15 “(8) such sums as may be necessary for fiscal
16 year 2011 and each subsequent fiscal year.”.

17 **SEC. 202. STATE ELIGIBILITY.**

18 (a) IN GENERAL.—(1) Section 612(a) of the Individ-
19 uals with Disabilities Education Act (20 U.S.C. 1412(a))
20 is amended in the matter preceding paragraph (1) by
21 striking “demonstrates to the satisfaction of” and insert-
22 ing “provides assurances to”.

23 (2) Paragraphs (1) through (11) of section 612(a)
24 of the Individuals with Disabilities Education Act (20
25 U.S.C. 1412(a)(1)–(11)) are amended to read as follows:



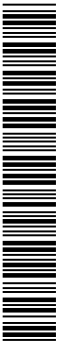
1 “(1) FREE APPROPRIATE PUBLIC EDU-
2 CATION.—

3 “(A) IN GENERAL.—A free appropriate
4 public education is available to all children with
5 disabilities residing in the State between the
6 ages of 3 and 21, inclusive, including children
7 with disabilities who have been suspended or ex-
8 pelled from school.

9 “(B) LIMITATION.—The obligation to
10 make a free appropriate public education avail-
11 able to all children with disabilities does not
12 apply with respect to children—

13 “(i) aged 3 through 5 and 18 through
14 21 in a State to the extent that its applica-
15 tion to those children would be inconsistent
16 with State law or practice, or the order of
17 any court, respecting the provision of pub-
18 lic education to children in those age
19 ranges; and

20 “(ii) aged 18 through 21 to the extent
21 that State law does not require that special
22 education and related services under this
23 part be provided to children with disabil-
24 ities who, in the educational placement



1 prior to their incarceration in an adult cor-
2 rectional facility—

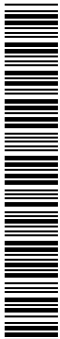
3 “(I) were not actually identified
4 as being a child with a disability
5 under section 602(3) of this Act; or

6 “(II) did not have an individual-
7 ized education program under this
8 part.

9 “(2) FULL EDUCATIONAL OPPORTUNITY
10 GOAL.—The State has established a goal of pro-
11 viding full educational opportunity to all children
12 with disabilities and a detailed timetable for accom-
13 plishing that goal.

14 “(3) CHILD FIND.—

15 “(A) IN GENERAL.—All children with dis-
16 abilities residing in the State, including children
17 with disabilities attending private schools, re-
18 gardless of the severity of their disabilities, and
19 who are in need of special education and related
20 services, are identified, located, and evaluated
21 and a practical method is developed and imple-
22 mented to determine which children with dis-
23 abilities are currently receiving needed special
24 education and related services.



1 “(B) CONSTRUCTION.—Nothing in this
2 Act requires that children be classified by their
3 disability so long as each child who has a dis-
4 ability listed in section 602 and who, by reason
5 of that disability, needs special education and
6 related services is regarded as a child with a
7 disability under this part.

8 “(4) INDIVIDUALIZED EDUCATION PROGRAM.—
9 An individualized education program, or an individ-
10 ualized family service plan that meets the require-
11 ments of section 636(d), is developed, reviewed, and
12 revised for each child with a disability in accordance
13 with section 614(d).

14 “(5) LEAST RESTRICTIVE ENVIRONMENT.—

15 “(A) IN GENERAL.—To the maximum ex-
16 tent appropriate, children with disabilities, in-
17 cluding children in public or private institutions
18 or other care facilities, are educated with chil-
19 dren who are not disabled, and special classes,
20 separate schooling, or other removal of children
21 with disabilities from the regular educational
22 environment occurs only when the nature or se-
23 verity of the disability of a child is such that
24 education in regular classes with the use of sup-



1 plementary aids and services cannot be achieved
2 satisfactorily.

3 “(B) ADDITIONAL REQUIREMENT.—

4 “(i) IN GENERAL.—If the State uses a
5 funding mechanism by which the State dis-
6 tributes State funds on the basis of the
7 type of setting in which a child is served,
8 the funding mechanism does not result in
9 placements that violate the requirements of
10 subparagraph (A).

11 “(ii) ASSURANCE.—If the State does
12 not have policies and procedures to ensure
13 compliance with clause (i), the State shall
14 provide the Secretary an assurance that it
15 will revise the funding mechanism as soon
16 as feasible to ensure that such mechanism
17 does not result in such placements.

18 “(6) PROCEDURAL SAFEGUARDS.—

19 “(A) IN GENERAL.—Children with disabil-
20 ities and their parents are afforded the proce-
21 dural safeguards required by section 615.

22 “(B) ADDITIONAL PROCEDURAL SAFE-
23 GUARDS.—Procedures to ensure that testing
24 and evaluation materials and procedures uti-
25 lized for the purposes of evaluation and place-



1 ment of children with disabilities for services
2 under this Act will be selected and administered
3 so as not to be racially or culturally discrimina-
4 tory. Such materials or procedures shall be pro-
5 vided and administered in the child's native lan-
6 guage or mode of communication, unless it
7 clearly is not feasible to do so, and no single
8 procedure shall be the sole criterion for deter-
9 mining an appropriate educational program for
10 a child.

11 “(7) EVALUATION.—Children with disabilities
12 are evaluated in accordance with subsections (a)
13 through (c) of section 614.

14 “(8) CONFIDENTIALITY.—Agencies in the State
15 comply with section 617(d) (relating to the confiden-
16 tiality of records and information).

17 “(9) TRANSITION FROM PART C TO PRESCHOOL
18 PROGRAMS.—Children participating in early-inter-
19 vention programs assisted under part C, and who
20 will participate in preschool programs assisted under
21 this part, experience a smooth and effective transi-
22 tion to those preschool programs in a manner con-
23 sistent with section 637(a)(8). By the third birthday
24 of such a child, an individualized education program
25 or, if consistent with section 636(d), an individual-



1 ized family service plan, has been developed and is
2 being implemented for the child. The local edu-
3 cational agency will participate in transition plan-
4 ning conferences arranged by the designated lead
5 agency under section 637(a)(8).

6 “(10) CHILDREN IN PRIVATE SCHOOLS.—

7 “(A) CHILDREN ENROLLED IN PRIVATE
8 SCHOOLS BY THEIR PARENTS.—

9 “(i) IN GENERAL.—To the extent con-
10 sistent with the number and location of
11 children with disabilities in the State who
12 are enrolled by their parents in private ele-
13 mentary and secondary schools, provision
14 is made for the participation of those chil-
15 dren in the program assisted or carried out
16 under this part by providing for such chil-
17 dren special education and related services
18 in accordance with the following require-
19 ments, unless the Secretary has arranged
20 for services to those children under sub-
21 section (f):

22 “(I) Amounts expended for the
23 provision of those services by a local
24 educational agency shall be equal to a



1 proportionate amount of Federal
2 funds made available under this part.

3 “(II) In calculating the propor-
4 tionate share of Federal funds, the
5 local educational agency, after timely
6 and meaningful consultation with rep-
7 resentatives of children enrolled in
8 private schools, conducts the child
9 find process to determine the number
10 of children with disabilities attending
11 private schools located in the district.

12 “(III) Such services may be pro-
13 vided to children with disabilities on
14 the premises of private, including pa-
15 rochial, schools, to the extent con-
16 sistent with law.

17 “(IV) Each local educational
18 agency maintains in its records and
19 provides to the State educational
20 agency the number of children evalu-
21 ated under this paragraph and the
22 number of children determined to be
23 children with disabilities.

24 “(ii) CHILD-FIND REQUIREMENT.—

25 The requirements of paragraph (3) of this



1 subsection (relating to child find) shall
2 apply with respect to children with disabil-
3 ities in the State who are enrolled in pri-
4 vate, including parochial, elementary and
5 secondary schools. Such child find process
6 shall be completed in a time period com-
7 parable to that for other students attend-
8 ing public schools in the local educational
9 agency.

10 “(B) CHILDREN PLACED IN, OR REFERRED
11 TO, PRIVATE SCHOOLS BY PUBLIC AGENCIES.—

12 “(i) IN GENERAL.—Children with dis-
13 abilities in private schools and facilities are
14 provided special education and related
15 services, in accordance with an individual-
16 ized education program, at no cost to their
17 parents, if such children are placed in, or
18 referred to, such schools or facilities by the
19 State or appropriate local educational
20 agency as the means of carrying out the
21 requirements of this part or any other ap-
22 plicable law requiring the provision of spe-
23 cial education and related services to all
24 children with disabilities within such State.



1 “(ii) STANDARDS.—In all cases de-
2 scribed in clause (i), the State educational
3 agency shall determine whether such
4 schools and facilities meet standards that
5 apply to State and local educational agen-
6 cies and that children so served have all
7 the rights they would have if served by
8 such agencies.

9 “(C) PAYMENT FOR EDUCATION OF CHIL-
10 DREN ENROLLED IN PRIVATE SCHOOLS WITH-
11 OUT CONSENT OF OR REFERRAL BY THE PUB-
12 LIC AGENCY.—

13 “(i) IN GENERAL.—Subject to sub-
14 paragraph (A), this part does not require
15 a local educational agency to pay for the
16 cost of education, including special edu-
17 cation and related services, of a child with
18 a disability at a private school or facility if
19 that agency made a free appropriate public
20 education available to the child and the
21 parents elected to place the child in such
22 private school or facility.

23 “(ii) REIMBURSEMENT FOR PRIVATE
24 SCHOOL PLACEMENT.—If the parents of a
25 child with a disability, who previously re-



1 ceived special education and related serv-
2 ices under the authority of a public agency,
3 enroll the child in a private elementary or
4 secondary school without the consent of or
5 referral by the public agency, a court or a
6 hearing officer may require the agency to
7 reimburse the parents for the cost of that
8 enrollment if the court or hearing officer
9 finds that the agency had not made a free
10 appropriate public education available to
11 the child in a timely manner prior to that
12 enrollment.

13 “(iii) LIMITATION ON REIMBURSE-
14 MENT.—The cost of reimbursement de-
15 scribed in clause (ii) may be reduced or
16 denied—

17 “(I) if—

18 “(aa) at the most recent
19 IEP meeting that the parents at-
20 tended prior to removal of the
21 child from the public school, the
22 parents did not inform the IEP
23 Team that they were rejecting
24 the placement proposed by the
25 public agency to provide a free



1 appropriate public education to
2 their child, including stating their
3 concerns and their intent to en-
4 roll their child in a private school
5 at public expense; or

6 “(bb) 10 business days (in-
7 cluding any holidays that occur
8 on a business day) prior to the
9 removal of the child from the
10 public school, the parents did not
11 give written notice to the public
12 agency of the information de-
13 scribed in division (aa);

14 “(II) if, prior to the parents’ re-
15 moval of the child from the public
16 school, the public agency informed the
17 parents, through the notice require-
18 ments described in section 615(b)(7),
19 of its intent to evaluate the child (in-
20 cluding a statement of the purpose of
21 the evaluation that was appropriate
22 and reasonable), but the parents did
23 not make the child available for such
24 evaluation; or



1 “(III) upon a judicial finding of
2 unreasonableness with respect to ac-
3 tions taken by the parents.

4 “(iv) EXCEPTION.—Notwithstanding
5 the notice requirement in clause (iii)(I),
6 the cost of reimbursement—

7 “(I) shall not be reduced or de-
8 nied for failure to provide such notice
9 if—

10 “(aa) the school prevented
11 the parent from providing such
12 notice;

13 “(bb) the parents had not
14 received notice, pursuant to sec-
15 tion 615, of the notice require-
16 ment in clause (iii)(I); or

17 “(cc) compliance with clause
18 (iii)(I) would likely result in
19 physical harm to the child; and

20 “(II) may, in the discretion of a
21 court or a hearing officer, not be re-
22 duced or denied for failure to provide
23 such notice if—

24 “(aa) the parent is illiterate
25 or cannot write in English; or



1 “(bb) compliance with clause
2 (iii)(I) would likely result in seri-
3 ous emotional harm to the child.

4 “(11) STATE EDUCATIONAL AGENCY RESPON-
5 SIBLE FOR GENERAL SUPERVISION.—

6 “(A) IN GENERAL.—The State educational
7 agency is responsible for ensuring that—

8 “(i) the requirements of this part are
9 met; and

10 “(ii) all educational programs for chil-
11 dren with disabilities in the State, includ-
12 ing all such programs administered by any
13 other State or local agency—

14 “(I) are under the general super-
15 vision of individuals in the State who
16 are responsible for educational pro-
17 grams for children with disabilities;
18 and

19 “(II) meet the educational stand-
20 ards of the State educational agency.

21 “(B) LIMITATION.—Subparagraph (A)
22 shall not limit the responsibility of agencies in
23 the State other than the State educational
24 agency to provide, or pay for some or all of the



1 costs of, a free appropriate public education for
2 any child with a disability in the State.

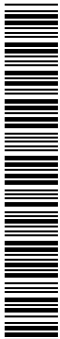
3 “(C) EXCEPTION.—Notwithstanding sub-
4 paragraphs (A) and (B), the Governor (or an-
5 other individual pursuant to State law), con-
6 sistent with State law, may assign to any public
7 agency in the State the responsibility of ensur-
8 ing that the requirements of this part are met
9 with respect to children with disabilities who
10 are convicted as adults under State law and in-
11 carcerated in adult prisons.”.

12 (3) Paragraphs (13) through (22) of section 612(a)
13 of the Individuals with Disabilities Education Act (20
14 U.S.C. 1412(a)(13)–(22)) are amended to read as follows:

15 “(13) PROCEDURAL REQUIREMENTS RELATING
16 TO LOCAL EDUCATIONAL AGENCY ELIGIBILITY.—
17 The State educational agency will not make a final
18 determination that a local educational agency is not
19 eligible for assistance under this part without first
20 affording that agency reasonable notice and an op-
21 portunity for a hearing.

22 “(14) PERSONNEL STANDARDS.—

23 “(A) IN GENERAL.—The State educational
24 agency has established and maintains standards
25 to ensure that personnel necessary to carry out



1 this part are appropriately and adequately pre-
2 pared and trained.

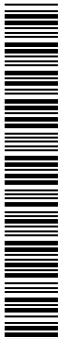
3 “(B) STANDARDS DESCRIBED.—Such
4 standards shall—

5 “(i) ensure that special education
6 teachers who teach in core academic sub-
7 jects are highly qualified in those subjects;

8 “(ii) be consistent with any State-ap-
9 proved or State-recognized certification, li-
10 censing, registration, or other comparable
11 requirements that apply to the professional
12 discipline in which those personnel are pro-
13 viding special education or related services;
14 and

15 “(iii) allow paraprofessionals and as-
16 sistants who are appropriately trained and
17 supervised, in accordance with State law,
18 regulations, or written policy, in meeting
19 the requirements of this part to be used to
20 assist in the provision of special education
21 and related services to children with dis-
22 abilities under this part.

23 “(15) PERFORMANCE GOALS AND INDICA-
24 TORS.—The State—



1 “(A) has established goals for the perform-
2 ance of children with disabilities in the State
3 that—

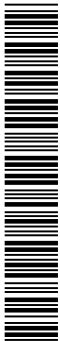
4 “(i) promote the purposes of this Act,
5 as stated in section 601(d);

6 “(ii) are the same as the State’s defi-
7 nition of adequate yearly progress, includ-
8 ing the State’s objectives for progress by
9 children with disabilities, under section
10 1111(b)(2)(C) of the Elementary and Sec-
11 ondary Education Act of 1965;

12 “(iii) address dropout rates, as well as
13 such other factors as the State may deter-
14 mine; and

15 “(iv) are consistent, to the extent ap-
16 propriate, with any other goals and stand-
17 ards for children established by the State;

18 “(B) has established performance indica-
19 tors the State will use to assess progress toward
20 achieving those goals described in subparagraph
21 (A), including measurable annual objectives for
22 progress by children with disabilities under sec-
23 tion 1111(b)(2)(C) of the Elementary and Sec-
24 ondary Education Act of 1965; and



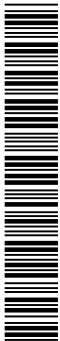
1 “(C) will annually report to the Secretary
2 and the public on the progress of the State, and
3 of children with disabilities in the State, toward
4 meeting the goals established under subpara-
5 graph (A), which may include elements of the
6 reports required under section 1111(h) of the
7 Elementary and Secondary Education Act of
8 1965.

9 “(16) PARTICIPATION IN ASSESSMENTS.—

10 “(A) IN GENERAL.—(i) All children with
11 disabilities are included in all general State and
12 district-wide assessment programs, including
13 assessments described under title I of the Ele-
14 mentary and Secondary Education Act of 1965,
15 with appropriate accommodations, where nec-
16 essary and as indicated in their respective indi-
17 vidualized education programs.

18 “(ii) The State (or, in the case of a dis-
19 trict-wide assessment, the local educational
20 agency) has developed and implemented guide-
21 lines for the provision of accommodations de-
22 scribed in clause (i).

23 “(iii) The State (or, in the case of a dis-
24 trict-wide assessment the local educational
25 agency)—



1 “(I) has developed and implemented
2 guidelines for the participation of children
3 with disabilities in alternate assessments
4 for those children who cannot participate
5 in regular assessments under clause (i);
6 and

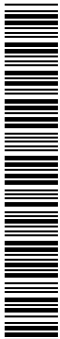
7 “(II) conducts those alternate assess-
8 ments.

9 “(B) REPORTS.—The State educational
10 agency (or, in the case of a district-wide assess-
11 ment, the local educational agency) makes
12 available to the public, and reports to the public
13 with the same frequency and in the same detail
14 as it reports on the assessment of nondisabled
15 children, the following:

16 “(i) The number of children with dis-
17 abilities participating in regular assess-
18 ments, and the number of those children
19 who were provided accommodations in
20 order to participate in those assessments.

21 “(ii) The number of children with dis-
22 abilities participating in alternate assess-
23 ments.

24 “(iii) The performance of children
25 with disabilities on regular assessments



1 and on alternate assessments (if the num-
2 ber of children with disabilities partici-
3 pating in those assessments is sufficient to
4 yield statistically reliable information and
5 reporting that information would not re-
6 veal personally identifiable information
7 about an individual student), compared
8 with the achievement of all children, in-
9 cluding children with disabilities, on those
10 assessments.

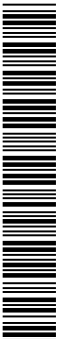
11 “(17) DISPUTE RESOLUTION.—The State has
12 in effect systems of mediation and voluntary binding
13 arbitration pursuant to section 615(e).

14 “(18) SUPPLEMENTATION OF STATE, LOCAL,
15 AND OTHER FEDERAL FUNDS.—

16 “(A) EXPENDITURES.—Funds paid to a
17 State under this part will be expended in ac-
18 cordance with all the provisions of this part.

19 “(B) PROHIBITION AGAINST COMMING-
20 GLING.—Funds paid to a State under this part
21 will not be commingled with State funds.

22 “(C) PROHIBITION AGAINST SUPPLAN-
23 TATION AND CONDITIONS FOR WAIVER BY SEC-
24 RETARY.—Except as provided in section 613,
25 funds paid to a State under this part will be

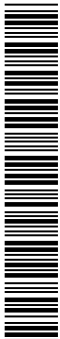


1 used to supplement the level of Federal, State,
2 and local funds (including funds that are not
3 under the direct control of State or local edu-
4 cational agencies) expended for special edu-
5 cation and related services provided to children
6 with disabilities under this part and in no case
7 to supplant such Federal, State, and local
8 funds, except that, where the State provides
9 clear and convincing evidence that all children
10 with disabilities have available to them a free
11 appropriate public education, the Secretary may
12 waive, in whole or in part, the requirements of
13 this subparagraph if the Secretary concurs with
14 the evidence provided by the State.

15 “(19) MAINTENANCE OF STATE FINANCIAL
16 SUPPORT.—

17 “(A) IN GENERAL.—The State does not re-
18 duce the amount of State financial support for
19 special education and related services for chil-
20 dren with disabilities, or otherwise made avail-
21 able because of the excess costs of educating
22 those children, below the amount of that sup-
23 port for the preceding fiscal year.

24 “(B) REDUCTION OF FUNDS FOR FAILURE
25 TO MAINTAIN SUPPORT.—The Secretary shall



1 reduce the allocation of funds under section 611
2 for any fiscal year following the fiscal year in
3 which the State fails to comply with the re-
4 quirement of subparagraph (A) by the same
5 amount by which the State fails to meet the re-
6 quirement.

7 “(C) WAIVERS FOR EXCEPTIONAL OR UN-
8 CONTROLLABLE CIRCUMSTANCES.—The Sec-
9 retary may waive the requirement of subpara-
10 graph (A) for a State, for one fiscal year at a
11 time, if the Secretary determines that—

12 “(i) granting a waiver would be equi-
13 table due to exceptional or uncontrollable
14 circumstances such as a natural disaster or
15 a precipitous and unforeseen decline in the
16 financial resources of the State; or

17 “(ii) the State meets the standard in
18 paragraph (18)(C) of this section for a
19 waiver of the requirement to supplement,
20 and not to supplant, funds received under
21 this part.

22 “(D) SUBSEQUENT YEARS.—If, for any
23 year, a State fails to meet the requirement of
24 subparagraph (A), including any year for which
25 the State is granted a waiver under subpara-



1 graph (C), the financial support required of the
2 State in future years under subparagraph (A)
3 shall be the amount that would have been re-
4 quired in the absence of that failure and not
5 the reduced level of the State's support.

6 “(20) PUBLIC PARTICIPATION.—Prior to the
7 adoption of any policies and procedures needed to
8 comply with this section (including any amendments
9 to such policies and procedures), the State ensures
10 that there are public hearings, adequate notice of
11 the hearings, and an opportunity for comment avail-
12 able to the general public, including individuals with
13 disabilities and parents of children with disabilities.

14 “(21) STATE ADVISORY PANEL.—

15 “(A) IN GENERAL.—The State has estab-
16 lished and maintains an advisory panel for the
17 purpose of providing policy guidance with re-
18 spect to special education and related services
19 for children with disabilities in the State.

20 “(B) MEMBERSHIP.—Such advisory panel
21 shall consist of members appointed by the Gov-
22 ernor, or any other official authorized under
23 State law to make such appointments, that is
24 representative of the State population and that
25 is composed of individuals involved in, or con-



1 cerned with, the education of children with dis-
2 abilities, including—

3 “(i) parents of children with disabil-
4 ities (ages birth through 26);

5 “(ii) individuals with disabilities;

6 “(iii) teachers;

7 “(iv) representatives of institutions of
8 higher education that prepare special edu-
9 cation and related services personnel;

10 “(v) State and local education offi-
11 cials;

12 “(vi) administrators of programs for
13 children with disabilities;

14 “(vii) representatives of other State
15 agencies involved in the financing or deliv-
16 ery of related services to children with dis-
17 abilities;

18 “(viii) representatives of private
19 schools and public charter schools;

20 “(ix) at least one representative of a
21 vocational, community, or business organi-
22 zation concerned with the provision of
23 transition services to children with disabil-
24 ities; and



1 “(x) representatives from the State
2 juvenile and adult corrections agencies.

3 “(C) SPECIAL RULE.—A majority of the
4 members of the panel shall be individuals with
5 disabilities or parents of children with disabili-
6 ties ages birth through 26.

7 “(D) DUTIES.—The advisory panel shall—

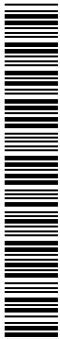
8 “(i) advise the State educational agen-
9 cy of unmet needs within the State in the
10 education of children with disabilities;

11 “(ii) comment publicly on any rules or
12 regulations proposed by the State regard-
13 ing the education of children with disabili-
14 ties;

15 “(iii) advise the State educational
16 agency in developing evaluations and re-
17 porting on data to the Secretary under sec-
18 tion 618;

19 “(iv) advise the State educational
20 agency in developing corrective action
21 plans to address findings identified in Fed-
22 eral monitoring reports under this part;
23 and

24 “(v) advise the State educational
25 agency in developing and implementing



1 policies relating to the coordination of serv-
2 ices for children with disabilities.

3 “(22) SUSPENSION AND EXPULSION RATES.—

4 “(A) IN GENERAL.—The State educational
5 agency examines data, including data
6 disaggregated by race and ethnicity, to deter-
7 mine if significant discrepancies are occurring
8 in the rate of long-term suspensions and expul-
9 sions of children with disabilities—

10 “(i) among local educational agencies
11 in the State; or

12 “(ii) compared to such rates for non-
13 disabled children within such agencies.

14 “(B) REVIEW AND REVISION OF POLI-
15 CIES.—If such discrepancies are occurring, the
16 State educational agency reviews and, if appro-
17 priate, revises (or requires the affected State or
18 local educational agency to revise) its policies,
19 procedures, and practices relating to the devel-
20 opment and implementation of IEPs, the use of
21 positive behavioral interventions and supports,
22 and procedural safeguards, to ensure that such
23 policies, procedures, and practices comply with
24 this Act.”.

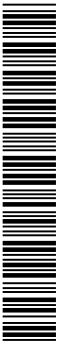


1 (4) Section 612(a) of the Individuals with Disabilities
2 Education Act (20 U.S.C. 1412(a)(13)–(22)) is amended
3 by adding at the end the following:

4 “(23) INSTRUCTIONAL MATERIALS.—

5 “(A) IN GENERAL.—The State adopts the
6 national instructional materials accessibility
7 standard for the purposes of providing instruc-
8 tional materials to blind persons or other per-
9 sons with print disabilities in a timely manner
10 after the publication of the standard by the
11 Secretary in the Federal Register.

12 “(B) PURCHASE REQUIREMENT.—Not
13 later than two years after the date of the enact-
14 ment of the Improving Education Results for
15 Children With Disabilities Act of 2003, the
16 State educational agency, when purchasing in-
17 structional materials for use in public elemen-
18 tary and secondary schools within the State, re-
19 quires the publisher of the instructional mate-
20 rials, as a part of any purchase agreement that
21 is made, renewed, or revised, to prepare and
22 supply electronic files containing the contents of
23 the instructional materials using the national
24 instructional materials accessibility standard.



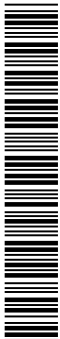
1 “(C) DEFINITION.—For purposes of this
2 paragraph, the term ‘instructional materials’
3 means printed textbooks and related core mate-
4 rials that are written and published primarily
5 for use in elementary school and secondary
6 school instruction and are required by a State
7 educational agency or local educational agency
8 for use by pupils in the classroom.”.

9 (b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
10 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
11 SERVICES.—Section 612(b) of the Individuals with Dis-
12 abilities Education Act (20 U.S.C. 1412(b)) is amended
13 to read as follows:

14 “(b) STATE EDUCATIONAL AGENCY AS PROVIDER OF
15 FREE APPROPRIATE PUBLIC EDUCATION OR DIRECT
16 SERVICES.—If the State educational agency provides free
17 appropriate public education to children with disabilities,
18 or provides direct services to such children, such agency—

19 “(1) shall comply with any additional require-
20 ments of section 613(a), as if such agency were a
21 local educational agency; and

22 “(2) may use amounts that are otherwise avail-
23 able to such agency under this part to serve those
24 children without regard to section 613(a)(2)(A)(i)
25 (relating to excess costs).”.



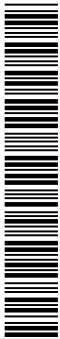
1 (c) EXCEPTION FOR PRIOR STATE PLANS.—Section
2 612(c) of the Individuals with Disabilities Education Act
3 (20 U.S.C. 1412(c)) is amended to read as follows:

4 “(c) EXCEPTION FOR PRIOR STATE PLANS.—

5 “(1) IN GENERAL.—If a State has on file with
6 the Secretary policies and procedures that dem-
7 onstrate that such State meets any requirement of
8 subsection (a), including any policies and procedures
9 filed under this part as in effect before the effective
10 date of the Improving Education Results for Chil-
11 dren With Disabilities Act of 2003, the Secretary
12 shall consider such State to have met such require-
13 ment for purposes of receiving a grant under this
14 part.

15 “(2) MODIFICATIONS MADE BY STATE.—Sub-
16 ject to paragraph (3), an application submitted by a
17 State in accordance with this section shall remain in
18 effect until the State submits to the Secretary such
19 modifications as the State deems necessary. This
20 section shall apply to a modification to an applica-
21 tion to the same extent and in the same manner as
22 this section applies to the original plan.

23 “(3) MODIFICATIONS REQUIRED BY THE SEC-
24 RETARY.—If, after the effective date of the Improv-
25 ing Education Results for Children With Disabilities



1 Act of 2003, the provisions of this Act are amended
2 (or the regulations developed to carry out this Act
3 are amended), or there is a new interpretation of
4 this Act by a Federal court or a State's highest
5 court, or there is an official finding of noncompli-
6 ance with Federal law or regulations, the Secretary
7 may require a State to modify its application only to
8 the extent necessary to ensure the State's compli-
9 ance with this part.”.

10 (d) APPROVAL BY THE SECRETARY.—Section 612(d)
11 of the Individuals with Disabilities Education Act (20
12 U.S.C. 1412(d)) is amended to read as follows:

13 “(d) APPROVAL BY THE SECRETARY.—

14 “(1) IN GENERAL.—If the Secretary determines
15 that a State is eligible to receive a grant under this
16 part, the Secretary shall notify the State of that de-
17 termination.

18 “(2) NOTICE AND HEARING.—The Secretary
19 shall not make a final determination that a State is
20 not eligible to receive a grant under this part until
21 after providing the State—

22 “(A) with reasonable notice; and

23 “(B) with an opportunity for a hearing.”.

24 (e) ASSISTANCE UNDER OTHER FEDERAL PRO-
25 GRAMS.—Section 612(e) of the Individuals with Disabil-



ities Education Act (20 U.S.C. 1412(e)) is amended to read as follows:

“(e) ASSISTANCE UNDER OTHER FEDERAL PROGRAMS.—Nothing in this title permits a State to reduce medical and other assistance available, or to alter eligibility, under titles V and XIX of the Social Security Act with respect to the provision of a free appropriate public education for children with disabilities in the State.”.

SEC. 203. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

Section 613 of the Individuals with Disabilities Education Act (20 U.S.C. 1413) is amended to read as follows:

“SEC. 613. LOCAL EDUCATIONAL AGENCY ELIGIBILITY.

“(a) IN GENERAL.—A local educational agency is eligible for assistance under this part for a fiscal year if such agency provides assurances to the State educational agency that it meets each of the following conditions:

“(1) CONSISTENCY WITH STATE POLICIES.—

The local educational agency, in providing for the education of children with disabilities within its jurisdiction, has in effect policies, procedures, and programs that are consistent with the State policies and procedures established under section 612.

“(2) USE OF AMOUNTS.—

“(A) IN GENERAL.—Amounts provided to the local educational agency under this part



1 shall be expended in accordance with the appli-
2 cable provisions of this part and—

3 “(i) shall be used only to pay the ex-
4 cess costs of providing special education
5 and related services to children with dis-
6 abilities;

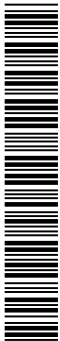
7 “(ii) shall be used to supplement
8 State, local, and other Federal funds and
9 not to supplant such funds; and

10 “(iii) shall not be used, except as pro-
11 vided in subparagraphs (B) and (C), to re-
12 duce the level of expenditures for the edu-
13 cation of children with disabilities made by
14 the local educational agency from local
15 funds below the level of those expenditures
16 for the preceding fiscal year.

17 “(B) EXCEPTION.—Notwithstanding the
18 restriction in subparagraph (A)(iii), a local edu-
19 cational agency may reduce the level of expendi-
20 tures where such reduction is attributable to—

21 “(i) the voluntary departure, by re-
22 tirement or otherwise, or departure for just
23 cause, of special education personnel;

24 “(ii) a decrease in the enrollment of
25 children with disabilities;



1 “(iii) the termination of the obligation
2 of the agency, consistent with this part, to
3 provide a program of special education to
4 a particular child with a disability that is
5 an exceptionally costly program, as deter-
6 mined by the State educational agency, be-
7 cause the child—

8 “(I) has left the jurisdiction of
9 the agency;

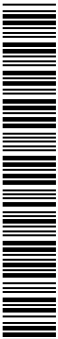
10 “(II) has reached the age at
11 which the obligation of the agency to
12 provide a free appropriate public edu-
13 cation to the child has terminated; or

14 “(III) no longer needs such pro-
15 gram of special education; or

16 “(iv) the termination of costly expend-
17 itures for long-term purchases, such as the
18 acquisition of equipment or the construc-
19 tion of school facilities.

20 “(C) TREATMENT OF FEDERAL FUNDS IN
21 CERTAIN FISCAL YEARS.—

22 “(i) Notwithstanding clauses (ii) and
23 (iii) of subparagraph (A), for any fiscal
24 year for which amounts appropriated to
25 carry out section 611 exceeds



1 \$4,100,000,000, a local educational agency
2 may treat as local funds, for the purpose
3 of such clauses, up to 20 percent of the
4 amount of funds it receives under this part
5 that exceeds the amount it received under
6 this part for the previous fiscal year.

7 “(ii) If a local educational agency
8 chooses to use the authority under clause
9 (i), then the agency shall use those local
10 funds to provide additional funding for
11 programs under the Elementary and Sec-
12 ondary Education Act of 1965, including,
13 but not limited to, programs that address
14 student achievement, comprehensive school
15 reform, literacy, teacher quality and pro-
16 fessional development, school safety,
17 before- and after- school learning opportu-
18 nities.

19 “(iii) Notwithstanding clause (i), if a
20 State educational agency determines that a
21 local educational agency is unable to estab-
22 lish and maintain programs of free appro-
23 priate public education that meet the re-
24 quirements of subsection (a), the State
25 educational agency shall prohibit the local



1 educational agency from treating funds re-
2 ceived under this part as local funds under
3 clause (i) for that fiscal year, but only if
4 it is authorized to do so by the State con-
5 stitution or a State statute.

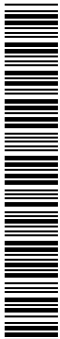
6 “(D) SCHOOLWIDE PROGRAMS UNDER
7 TITLE I OF THE ESEA.—Notwithstanding sub-
8 paragraph (A) or any other provision of this
9 part, a local educational agency may use funds
10 received under this part for any fiscal year to
11 carry out a schoolwide program under section
12 1114 of the Elementary and Secondary Edu-
13 cation Act of 1965, except that the amount so
14 used in any such program shall not exceed—

15 “(i) the number of children with dis-
16 abilities participating in the schoolwide
17 program; multiplied by

18 “(ii)(I) the amount received by the
19 local educational agency under this part
20 for that fiscal year; divided by

21 “(II) the number of children with dis-
22 abilities in the jurisdiction of that agency.

23 “(3) PERSONNEL DEVELOPMENT.—The local
24 educational agency shall ensure that all personnel
25 necessary to carry out this part are appropriately



1 and adequately prepared, consistent with the re-
2 quirements of section 612 of this Act and section
3 1119 of the Elementary and Secondary Education
4 Act of 1965.

5 “(4) PERMISSIVE USE OF FUNDS.—Notwith-
6 standing paragraph (2)(A) or section 612(a)(18)(B)
7 (relating to commingled funds), funds provided to
8 the local educational agency under this part may be
9 used for the following activities:

10 “(A) SERVICES AND AIDS THAT ALSO BEN-
11 EFIT NONDISABLED CHILDREN.—For the costs
12 of special education and related services and
13 supplementary aids and services provided in a
14 regular class or other education-related setting
15 to a child with a disability in accordance with
16 the individualized education program of the
17 child, even if one or more nondisabled children
18 benefit from such services.

19 “(B) PREREFERRAL SERVICES.—To de-
20 velop and implement a system of comprehensive
21 coordinated prereferral education support serv-
22 ices in accordance with subsection (f).

23 “(C) HIGH COST EDUCATION AND RE-
24 LATED SERVICES.—To establish and implement
25 cost or risk sharing funds, consortia, or co-



1 operatives for the agency itself, or for local edu-
2 cational agencies working in consortium of
3 which the local education agency is a part, to
4 pay for high cost special education and related
5 services.

6 “(D) CASE MANAGEMENT AND ADMINIS-
7 TRATION.—To purchase appropriate technology
8 for record keeping, data collection, and related
9 case management activities of teachers and re-
10 lated services personnel who are providing serv-
11 ices described in the individualized education
12 program of children with disabilities necessary
13 to the implementation of those case manage-
14 ment activities.

15 “(E) SUPPLEMENTAL EDUCATIONAL SERV-
16 ICES FOR CHILDREN WITH DISABILITIES IN
17 SCHOOLS DESIGNATED FOR IMPROVEMENT.—
18 For the reasonable additional expenses (as de-
19 termined by the local education agency) of any
20 necessary accommodations to allow children
21 with disabilities who are being educated in a
22 school identified for school improvement under
23 section 1116(b) of the Elementary and Sec-
24 ondary Education Act of 1965 (20 U.S.C.
25 6316(b)) to be provided supplemental edu-



1 educational services under section 1116(e) of such
2 Act on an equitable basis.

3 “(5) TREATMENT OF CHARTER SCHOOLS AND
4 THEIR STUDENTS.—In carrying out this part with
5 respect to charter schools that are public schools of
6 the local educational agency, the local educational
7 agency—

8 “(A) serves children with disabilities at-
9 tending those schools in the same manner as it
10 serves children with disabilities in its other
11 schools, including providing supplemental and
12 related services on site at the charter school
13 when the local educational agency has a policy
14 or practice of providing those services on site to
15 its other schools; and

16 “(B) provides funds under this part to
17 those schools on the same basis, including pro-
18 portional distribution based on relative enroll-
19 ment of children with disabilities, and at the
20 same time as the local educational agency dis-
21 tributes State funds, local funds, or a combina-
22 tion of State and local funds, to those schools
23 under the State charter law.

24 “(6) PURCHASE OF INSTRUCTIONAL MATE-
25 RIALS.—Not later than two years after the date of



1 the enactment of the Improving Education Results
2 for Children With Disabilities Act of 2003, the local
3 educational agency, when purchasing instructional
4 materials for use in public elementary and secondary
5 schools within the local educational agency, requires
6 the publisher of the instructional materials, as a
7 part of any purchase agreement that is made, re-
8 newed, or revised, to prepare and supply electronic
9 files containing the contents of the instructional ma-
10 terials using the national instructional materials ac-
11 cessibility standard described in section 612(a)(23).

12 “(7) INFORMATION FOR STATE EDUCATIONAL
13 AGENCY.—The local educational agency shall provide
14 the State educational agency with information nec-
15 essary to enable the State educational agency to
16 carry out its duties under this part, including, with
17 respect to paragraphs (15) and (16) of section
18 612(a), information relating to the performance of
19 children with disabilities participating in programs
20 carried out under this part.

21 “(8) PUBLIC INFORMATION.—The local edu-
22 cational agency shall make available to parents of
23 children with disabilities and to the general public
24 all documents relating to the eligibility of such agen-
25 cy under this part.



1 “(b) EXCEPTION FOR PRIOR LOCAL PLANS.—

2 “(1) IN GENERAL.—If a local educational agen-
3 cy or State agency has on file with the State edu-
4 cational agency policies and procedures that dem-
5 onstrate that such local educational agency, or such
6 State agency, as the case may be, meets any require-
7 ment of subsection (a), including any policies and
8 procedures filed under this part as in effect before
9 the effective date of the Improving Education Re-
10 sults for Children With Disabilities Act of 2003, the
11 State educational agency shall consider such local
12 educational agency or State agency, as the case may
13 be, to have met such requirement for purposes of re-
14 ceiving assistance under this part.

15 “(2) MODIFICATION MADE BY LOCAL EDU-
16 CATIONAL AGENCY.—Subject to paragraph (3), an
17 application submitted by a local educational agency
18 in accordance with this section shall remain in effect
19 until it submits to the State educational agency such
20 modifications as the local educational agency deems
21 necessary.

22 “(3) MODIFICATIONS REQUIRED BY STATE
23 EDUCATIONAL AGENCY.—If, after the date of the en-
24 actment of the Improving Education Results for
25 Children With Disabilities Act of 2003, the provi-

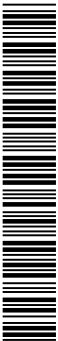


1 sions of this Act are amended (or the regulations de-
2 veloped to carry out this Act are amended), or there
3 is a new interpretation of this Act by Federal or
4 State courts, or there is an official finding of non-
5 compliance with Federal or State law or regulations,
6 the State educational agency may require a local
7 educational agency to modify its application only to
8 the extent necessary to ensure the local educational
9 agency's compliance with this part or State law.

10 “(c) NOTIFICATION OF LOCAL EDUCATIONAL AGEN-
11 CY OR STATE AGENCY IN CASE OF INELIGIBILITY.—If the
12 State educational agency determines that a local edu-
13 cational agency or State agency is not eligible under this
14 section, the State educational agency shall notify the local
15 educational agency or State agency, as the case may be,
16 of that determination and shall provide such local edu-
17 cational agency or State agency with reasonable notice and
18 an opportunity for a hearing.

19 “(d) LOCAL EDUCATIONAL AGENCY COMPLIANCE.—

20 “(1) IN GENERAL.—If the State educational
21 agency, after reasonable notice and an opportunity
22 for a hearing, finds that a local educational agency
23 or State agency that has been determined to be eligi-
24 ble under this section is failing to comply with any
25 requirement described in subsection (a), the State



1 educational agency shall reduce or shall not provide
2 any further payments to the local educational agency
3 or State agency until the State educational agency
4 is satisfied that the local educational agency or State
5 agency, as the case may be, is complying with that
6 requirement.

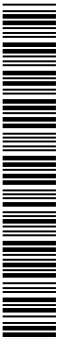
7 “(2) ADDITIONAL REQUIREMENT.—Any State
8 agency or local educational agency in receipt of a no-
9 tice described in paragraph (1) shall, by means of
10 public notice, take such measures as may be nec-
11 essary to bring the pendency of an action pursuant
12 to this subsection to the attention of the public with-
13 in the jurisdiction of such agency.

14 “(3) CONSIDERATION.—In carrying out its re-
15 sponsibilities under paragraph (1), the State edu-
16 cational agency shall consider any decision made in
17 a hearing held under section 615 that is adverse to
18 the local educational agency or State agency involved
19 in that decision.

20 “(e) JOINT ESTABLISHMENT OF ELIGIBILITY.—

21 “(1) JOINT ESTABLISHMENT.—

22 “(A) IN GENERAL.—A State educational
23 agency may require a local educational agency
24 to establish its eligibility jointly with another
25 local educational agency if the State educational

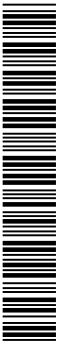


1 agency determines that the local educational
2 agency would be ineligible under this section be-
3 cause the local educational agency would not be
4 able to establish and maintain programs of suf-
5 ficient size and scope to effectively meet the
6 needs of children with disabilities.

7 “(B) CHARTER SCHOOL EXCEPTION.—A
8 State educational agency may not require a
9 charter school that is a local educational agency
10 to jointly establish its eligibility under subpara-
11 graph (A) unless it is explicitly permitted to do
12 so under the State’s charter school statute.

13 “(2) AMOUNT OF PAYMENTS.—If a State edu-
14 cational agency requires the joint establishment of
15 eligibility under paragraph (1), the total amount of
16 funds made available to the affected local edu-
17 cational agencies shall be equal to the sum of the
18 payments that each such local educational agency
19 would have received under section 611(g) if such
20 agencies were eligible for such payments.

21 “(3) REQUIREMENTS.—Local educational agen-
22 cies that establish joint eligibility under this sub-
23 section shall—



1 “(A) adopt policies and procedures that
2 are consistent with the State’s policies and pro-
3 cedures under section 612(a); and

4 “(B) be jointly responsible for imple-
5 menting programs that receive assistance under
6 this part.

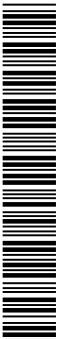
7 “(4) REQUIREMENTS FOR EDUCATIONAL SERV-
8 ICE AGENCIES.—

9 “(A) IN GENERAL.—If an educational serv-
10 ice agency is required by State law to carry out
11 programs under this part, the joint responsibil-
12 ities given to local educational agencies under
13 this subsection shall—

14 “(i) not apply to the administration
15 and disbursement of any payments re-
16 ceived by that educational service agency;
17 and

18 “(ii) be carried out only by that edu-
19 cational service agency.

20 “(B) ADDITIONAL REQUIREMENT.—Not-
21 withstanding any other provision of this sub-
22 section, an educational service agency shall pro-
23 vide for the education of children with disabil-
24 ities in the least restrictive environment, as re-
25 quired by section 612(a)(5).

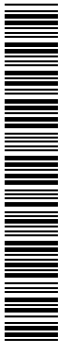


1 “(f) PREREFERRAL SERVICES.—

2 “(1) IN GENERAL.—A local educational agency
3 may use not more than 15 percent of the amount
4 such agency receives under this part for any fiscal
5 year, in combination with other amounts (which may
6 include amounts other than education funds), to de-
7 velop and implement comprehensive coordinated
8 prereferral educational support services for students
9 in kindergarten through grade 12 (with a particular
10 emphasis on students in grades kindergarten
11 through 3) who have not been identified as needing
12 special education or related services but who need
13 additional academic and behavioral support to suc-
14 ceed in a general education environment.

15 “(2) ACTIVITIES.—In implementing comprehen-
16 sive coordinated prereferral educational services
17 under this subsection, a local educational agency
18 may carry out the following activities:

19 “(A) Professional development (which may
20 be provided by entities other than local edu-
21 cational agencies) for teachers to enable them
22 to deliver scientifically based academic and be-
23 havioral interventions, including scientifically
24 based literacy instruction.



1 “(B) Providing educational evaluations,
2 services, and supports, including scientifically
3 based literacy instruction.

4 “(C) Providing behavioral evaluations and
5 services and supports, including positive behav-
6 ioral interventions and supports.

7 “(3) EXCLUSION.—Nothing in this subsection
8 shall be construed to either limit or create a right
9 to a free appropriate public education under this
10 part.

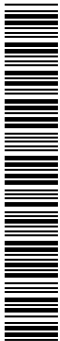
11 “(4) REPORTING.—Each local educational
12 agency that develops and maintains comprehensive
13 coordinated prereferral educational support services
14 under this subsection shall annually report to the
15 State educational agency on—

16 “(A) the number of students served under
17 this subsection; and

18 “(B) the number of students served under
19 this subsection who subsequently receive special
20 education and related services under this Act
21 during the preceding 2-year period.

22 “(5) COORDINATION WITH THE ELEMENTARY
23 AND SECONDARY EDUCATION ACT OF 1965.—

24 “(A) IN GENERAL.—Comprehensive coordi-
25 nated prereferral educational support services



1 provided under this subsection may be aligned
2 with activities funded by, and carried out
3 under, the Elementary and Secondary Edu-
4 cation Act of 1965, such as the Reading First
5 program under subpart 1 of part B of title I of
6 such Act, the Early Reading First program
7 under subpart 2 of part B of title I of such Act,
8 reading and math supports under part A of
9 title I of such Act, and behavior intervention
10 supports, that improve results for children with
11 disabilities.

12 “(B) MAINTENANCE OF EFFORT.—Funds
13 used under this section shall be used to supple-
14 ment, and not supplant, funds made available
15 under the Elementary and Secondary Education
16 Act of 1965.

17 “(g) DIRECT SERVICES BY THE STATE EDU-
18 CATIONAL AGENCY.—

19 “(1) IN GENERAL.—A State educational agency
20 shall use the payments that would otherwise have
21 been available to a local educational agency or to a
22 State agency to provide special education and re-
23 lated services directly to children with disabilities re-
24 siding in the area served by that local agency, or for
25 whom that State agency is responsible, if the State



1 educational agency determines that the local edu-
2 cation agency or State agency, as the case may be—

3 (A) has not provided the information need-
4 ed to establish the eligibility of such agency
5 under this section;

6 (B) is unable to establish and maintain
7 programs of free appropriate public education
8 that meet the requirements of subsection (a);

9 “(C) is unable or unwilling to be consoli-
10 dated with one or more local educational agen-
11 cies in order to establish and maintain such
12 programs; or

13 “(D) has one or more children with disabil-
14 ities who can best be served by a regional or
15 State program or service-delivery system de-
16 signed to meet the needs of such children.

17 “(2) MANNER AND LOCATION OF EDUCATION
18 AND SERVICES.—The State educational agency may
19 provide special education and related services under
20 paragraph (1) in such manner and at such locations
21 (including regional or State centers) as the State
22 agency considers appropriate. Such education and
23 services shall be provided in accordance with this
24 part.

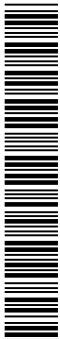


1 “(h) STATE AGENCY ELIGIBILITY.—Any State agen-
2 cy that desires to receive a subgrant for any fiscal year
3 under section 611(g) shall demonstrate to the satisfaction
4 of the State educational agency that—

5 “(1) all children with disabilities who are par-
6 ticipating in programs and projects funded under
7 this part receive a free appropriate public education,
8 and that those children and their parents are pro-
9 vided all the rights and procedural safeguards de-
10 scribed in this part; and

11 “(2) the agency meets such other conditions of
12 this section as the Secretary determines to be appro-
13 priate.

14 “(i) DISCIPLINARY INFORMATION.—The State may
15 require that a local educational agency include in the
16 records of a child with a disability a statement of any cur-
17 rent or previous disciplinary action that has been taken
18 against the child and transmit such statement to the same
19 extent that such disciplinary information is included in,
20 and transmitted with, the student records of nondisabled
21 children. The statement may include a description of any
22 behavior engaged in by the child that required disciplinary
23 action, a description of the disciplinary action taken, and
24 any other information that is relevant to the safety of the
25 child and other individuals involved with the child. If the



1 State adopts such a policy, and the child transfers from
2 one school to another, the transmission of any of the
3 child's records must include both the child's current indi-
4 vidualized education program and any such statement of
5 current or previous disciplinary action that has been taken
6 against the child.”.

7 **SEC. 204. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
8 **INDIVIDUALIZED EDUCATION PROGRAMS,**
9 **AND EDUCATIONAL PLACEMENTS.**

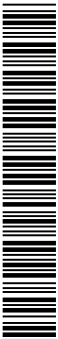
10 Section 614 of the Individuals with Disabilities Edu-
11 cation Act (20 U.S.C. 1414) is amended to read as follows:

12 **“SEC. 614. EVALUATIONS, ELIGIBILITY DETERMINATIONS,**
13 **INDIVIDUALIZED EDUCATION PROGRAMS,**
14 **AND EDUCATIONAL PLACEMENTS.**

15 “(a) EVALUATIONS, PARENTAL CONSENT, AND RE-
16 EVALUATIONS.—

17 “(1) INITIAL EVALUATIONS.—

18 “(A) IN GENERAL.—A State educational
19 agency, other State agency, or local educational
20 agency shall conduct a full and individual initial
21 evaluation, in accordance with this paragraph
22 and subsection (b), before the initial provision
23 of special education and related services to a
24 child with a disability under this part.



1 “(B) REQUEST FOR INITIAL EVALUA-
2 TION.—Consistent with subparagraph (D), ei-
3 ther a parent of a child, a State educational
4 agency, other State agency as appropriate, or
5 local educational agency may initiate a request
6 for an initial evaluation to determine if the
7 child is a child with a disability.

8 “(C) PROCEDURES.—Such initial evalua-
9 tion shall consist of procedures—

10 “(i) to determine whether a child is a
11 child with a disability (as defined in sec-
12 tion 602(3)); and

13 “(ii) to determine the educational
14 needs of such child.

15 “(D) PARENTAL CONSENT.—

16 “(i) IN GENERAL.—

17 “(I) CONSENT FOR INITIAL
18 EVALUATION.—The agency proposing
19 to conduct an initial evaluation to de-
20 termine if the child qualifies as a child
21 with a disability as defined in section
22 602(3)(A) or 602(3)(B) shall obtain
23 informed consent from the parent of
24 such child before conducting the eval-
25 uation. Parental consent for evalua-



1 tion shall not be construed as consent
2 for placement for receipt of special
3 education and related services.

4 “(II) CONSENT FOR SERVICES.—

5 An agency that is responsible for
6 making a free appropriate public edu-
7 cation available to a child with a dis-
8 ability under this part shall seek to
9 obtain informed consent from the par-
10 ent of such child before providing spe-
11 cial education and related services to
12 the child.

13 “(ii) ABSENCE OF CONSENT.—

14 “(I) FOR INITIAL EVALUATION.—

15 If the parent of such child does not
16 provide consent for an initial evalua-
17 tion under clause (i)(I), or the parent
18 fails to respond to a request to pro-
19 vide the consent, the local educational
20 agency may pursue the initial evalua-
21 tion of the child through the proce-
22 dures described in section 615, except
23 to the extent inconsistent with State
24 law relating to such parental consent.

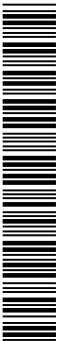


1 “(II) FOR SERVICES.—If the par-
2 ent of such child does not provide con-
3 sent for services under clause (i)(II),
4 or the parent fails to respond to a re-
5 quest to provide the consent, the local
6 educational agency shall not provide
7 special education and related services
8 to the child through the procedures
9 described in section 615.

10 “(III) EFFECT ON AGENCY OBLI-
11 GATIONS.—In any case for which
12 there is an absence of consent for an
13 initial evaluation under subclause (I),
14 or for which there is an absence of
15 consent for services under subclause
16 (II)—

17 “(aa) the local educational
18 agency shall not be required to
19 convene an IEP meeting or de-
20 velop an IEP under this section
21 for the child; and

22 “(bb) the local educational
23 agency shall not be considered to
24 be in violation of any require-
25 ment under this part (including



1 the requirement to make avail-
2 able a free appropriate public
3 education to the child) with re-
4 spect to the lack of an initial
5 evaluation of the child, an IEP
6 meeting with respect to the child,
7 or the development of an IEP
8 under this section for the child.

9 “(2) REEVALUATIONS.—

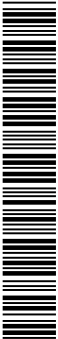
10 “(A) IN GENERAL.—A local educational
11 agency shall ensure that a reevaluation of each
12 child with a disability is conducted in accord-
13 ance with subsections (b) and (c)—

14 “(i) if the local educational agency de-
15 termines that the educational needs, in-
16 cluding improved academic achievement, of
17 the child warrant a reevaluation; or

18 “(ii) if the child’s parent or teacher
19 requests a reevaluation.

20 “(B) LIMITATION.—A reevaluation con-
21 ducted under subparagraph (A) shall occur—

22 “(i) no more than once a year, unless
23 the parent and the local educational agen-
24 cy agree otherwise; and



1 “(ii) at least once every three years,
2 unless the parent and the local educational
3 agency agree that a reevaluation is unnec-
4 essary.

5 “(b) EVALUATION PROCEDURES.—

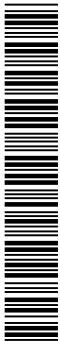
6 “(1) NOTICE.—The local educational agency
7 shall provide notice to the parent of a child with a
8 disability, in accordance with subsections (b)(3),
9 (b)(4), and (c) of section 615, that describes any
10 evaluation procedures such agency proposes to con-
11 duct.

12 “(2) CONDUCT OF EVALUATION.—In con-
13 ducting the evaluation, the local educational agency
14 shall—

15 “(A) use multiple up-to-date measures and
16 assessments to gather relevant functional, de-
17 velopmental, and academic information, includ-
18 ing information provided by the parent, to as-
19 sist in determining—

20 “(i) whether the child is a child with
21 a disability; and

22 “(ii) the content of the child’s individ-
23 ualized education program, including infor-
24 mation related to enabling the child to be
25 involved in and progress in the general



1 education curriculum or, for preschool chil-
2 dren, to participate in appropriate activi-
3 ties; and

4 “(B) not use any single measure or assess-
5 ment as the sole criterion for determining
6 whether a child is a child with a disability or
7 determining an appropriate educational pro-
8 gram for the child; and

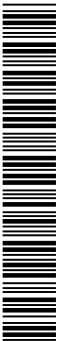
9 “(C) use technically sound instruments
10 that may assess the relative contribution of cog-
11 nitive and behavioral factors, in addition to
12 physical or developmental factors.

13 “(3) ADDITIONAL REQUIREMENTS.—Each local
14 educational agency shall ensure that—

15 “(A) assessments and other evaluation
16 measures used to assess a child under this
17 section—

18 “(i) are selected and administered so
19 as not to be discriminatory on a racial or
20 cultural basis;

21 “(ii) are provided and administered,
22 to the extent practicable, in the language
23 and form most likely to yield accurate aca-
24 demic and developmental data;



1 “(iii) are used for the purposes for
2 which the assessments or measures are
3 valid and reliable;

4 “(iv) are administered by trained and
5 knowledgeable personnel; and

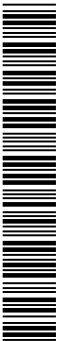
6 “(v) are administered in accordance
7 with any instructions provided by the pro-
8 ducer of such tests;

9 “(B) the child is assessed in all areas of
10 suspected disability; and

11 “(C) assessment tools and strategies that
12 provide relevant information that directly as-
13 sists persons in determining the educational
14 needs of the child are provided.

15 “(4) DETERMINATION OF ELIGIBILITY AND
16 EDUCATIONAL NEED.—Upon completion of the ad-
17 ministration of assessments and other evaluation
18 measures—

19 “(A) the determination of whether the
20 child is a child with a disability as defined in
21 section 602(3) and the educational needs of the
22 child shall be made by a team of qualified pro-
23 fessionals and the parent of the child in accord-
24 ance with paragraph (5); and



1 “(B) a copy of the evaluation report and
2 the documentation of determination of eligibility
3 will be given to the parent.

4 “(5) SPECIAL RULE FOR ELIGIBILITY DETER-
5 MINATION.—In making a determination of eligibility
6 under paragraph (4)(A), a child shall not be deter-
7 mined to be a child with a disability if the deter-
8 minant factor for such determination is—

9 “(A) lack of scientifically-based instruction
10 practices and programs that contain the essen-
11 tial components of reading instruction (as that
12 term is defined in section 1208(3) of the Ele-
13 mentary and Secondary Education Act of
14 1965);

15 “(B) lack of instruction in math; or

16 “(C) limited English proficiency.

17 “(6) SPECIFIC LEARNING DISABILITIES.—

18 “(A) IN GENERAL.—Notwithstanding sec-
19 tion 607 of this Act, when determining whether
20 a child has a specific learning disability as de-
21 fined under this Act, the local educational agen-
22 cy shall not be required to take into consider-
23 ation whether the child has a severe discrepancy
24 between achievement and intellectual ability in
25 oral expression, listening comprehension, writ-



1 ten expression, basic reading skill, reading com-
2 prehension, mathematical calculation, or mathe-
3 matical reasoning.

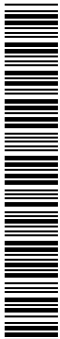
4 “(B) ADDITIONAL AUTHORITY.—In deter-
5 mining whether a child has a specific learning
6 disability, a local educational agency may use a
7 process which determines if a child responds to
8 scientific, research-based intervention.

9 “(c) ADDITIONAL REQUIREMENTS FOR EVALUATION
10 AND REEVALUATIONS.—

11 “(1) REVIEW OF EXISTING EVALUATION
12 DATA.—As part of an initial evaluation (if appro-
13 priate) and as part of any reevaluation under this
14 section, the IEP Team described in subsection
15 (d)(1)(B) and other qualified professionals, as ap-
16 propriate, shall—

17 “(A) review existing evaluation data on the
18 child, including evaluations and information
19 provided by the parents of the child, current
20 classroom-based local or State assessments, and
21 classroom-based observations, and teacher and
22 related services providers observation; and

23 “(B) on the basis of that review, and input
24 from the child’s parents, identify what addi-
25 tional data, if any, are needed to determine—



1 “(i) whether the child is a child with
2 a disability as defined in section 602(3),
3 and the educational needs of the child, or,
4 in case of a reevaluation of a child, wheth-
5 er the child continues to have such a dis-
6 ability and such educational needs;

7 “(ii) the present levels of academic
8 achievement and related developmental
9 needs of the child;

10 “(iii) whether the child needs special
11 education and related services, or in the
12 case of a reevaluation of a child, whether
13 the child continues to need special edu-
14 cation and related services; and

15 “(iv) whether any additions or modi-
16 fications to the special education and re-
17 lated services are needed to enable the
18 child to meet the measurable annual goals
19 set out in the individualized education pro-
20 gram of the child and to participate, as ap-
21 propriate, in the general education cur-
22 riculum.

23 “(2) SOURCE OF DATA.—The local educational
24 agency shall administer such assessments and other
25 evaluation measures as may be needed to produce



1 the data identified by the IEP Team under para-
2 graph (1)(B).

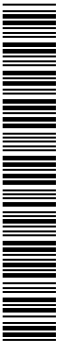
3 “(3) PARENTAL CONSENT.—Each local edu-
4 cational agency shall obtain informed parental con-
5 sent, in accordance with subsection (a)(1)(D), prior
6 to conducting any reevaluation of a child with a dis-
7 ability, except that such informed parental consent
8 need not be obtained if the local educational agency
9 can demonstrate that it had taken reasonable meas-
10 ures to obtain such consent and the child’s parent
11 has failed to respond.

12 “(4) REQUIREMENTS IF ADDITIONAL DATA ARE
13 NOT NEEDED.—If the IEP Team and other qualified
14 professionals, as appropriate, determine that no ad-
15 ditional data are needed to determine whether the
16 child continues to be a child with a disability and to
17 determine the child’s educational needs, the local
18 educational agency—

19 “(A) shall notify the child’s parents of—

20 “(i) that determination and the rea-
21 sons for it; and

22 “(ii) the right of such parents to re-
23 quest an assessment to determine whether
24 the child continues to be a child with a dis-



1 ability and to determine the child's edu-
2 cational needs; and

3 “(B) shall not be required to conduct such
4 an assessment unless requested to by the child's
5 parents.

6 “(5) EVALUATIONS BEFORE CHANGE IN ELIGI-
7 BILITY.—A local educational agency shall evaluate a
8 child with a disability in accordance with this section
9 before determining that the child is no longer a child
10 with a disability.

11 “(d) INDIVIDUALIZED EDUCATION PROGRAMS.—

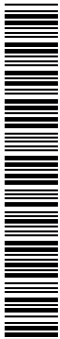
12 “(1) DEFINITIONS.—As used in this title:

13 “(A) INDIVIDUALIZED EDUCATION PRO-
14 GRAM.—

15 “(i) IN GENERAL.—The term ‘individ-
16 ualized education program’ or ‘IEP’ means
17 a written statement for each child with a
18 disability that is developed, reviewed, and
19 revised in accordance with this section and
20 that includes—

21 “(I) a statement of the child's
22 present levels of academic achieve-
23 ment, including—

24 “(aa) how the child's dis-
25 ability affects the child's involve-



1 ment and progress in the general
2 education curriculum;

3 “(bb) for preschool children,
4 as appropriate, how the disability
5 affects the child’s participation in
6 appropriate activities; or

7 “(cc) until the beginning of
8 the 2005–2006 school year, a de-
9 scription of benchmarks or short-
10 term objectives or, in the case of
11 children with disabilities who
12 take alternate assessments, a de-
13 scription of benchmarks or short-
14 term objectives without school-
15 year limitation;

16 “(II) a statement of measurable
17 annual goals designed to—

18 “(aa) enable the child to be
19 involved in and make progress in
20 the general education curriculum;
21 and

22 “(bb) meet the child’s other
23 educational needs that result
24 from the child’s disability;



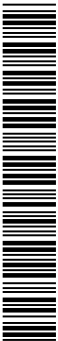
1 “(III) a statement of the special
2 education and related services and
3 supplementary aids and services,
4 based on peer-reviewed research, to be
5 provided to the child, or on behalf of
6 the child, and a statement of the pro-
7 gram modifications or supports for
8 school personnel that will be provided
9 for the child—

10 “(aa) to advance appro-
11 priately toward attaining the an-
12 nual goals;

13 “(bb) to be involved in and
14 make progress in the general
15 education curriculum in accord-
16 ance with subclause (I) and to
17 participate in extracurricular and
18 other nonacademic activities; and

19 “(cc) to be educated and
20 participate with other children
21 with disabilities and nondisabled
22 children in the activities de-
23 scribed in this paragraph;

24 “(IV) an explanation of the ex-
25 tent, if any, to which the child will not



1 participate with nondisabled children
2 in the regular class and in the activi-
3 ties described in subclause (III)(cc);

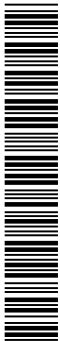
4 “(V)(aa) a statement of any indi-
5 vidual appropriate accommodations in
6 the administration of State or district-
7 wide assessments of student achieve-
8 ment that are necessary to measure
9 the academic achievement of the child
10 consistent with section
11 612(a)(16)(A)(ii); and

12 “(bb) if the IEP Team deter-
13 mines that the child will not partici-
14 pate in a particular State or district-
15 wide assessment of student achieve-
16 ment (or part of such an assessment),
17 a statement of—

18 “(AA) why that assessment
19 is not appropriate for the child;
20 and

21 “(BB) how the child will be
22 assessed consistent with
23 612(a)(16)(A);

24 “(VI) the projected date for the
25 beginning of the services and modi-



1 fications described in subclause (III),
2 and the anticipated frequency, loca-
3 tion, and duration of those services
4 and modifications;

5 “(VII)(aa) beginning at age 14,
6 and updated annually, a statement of
7 the transition service needs of the
8 child under the applicable components
9 of the child’s IEP that focuses on the
10 child’s courses of study (such as par-
11 ticipation in advanced-placement
12 courses or a vocational education pro-
13 gram);

14 “(bb) beginning at age 16 (or
15 younger, if determined appropriate by
16 the IEP Team), a statement of need-
17 ed transition services for the child, in-
18 cluding, when appropriate, a state-
19 ment of the interagency responsibil-
20 ities or any needed linkages; and

21 “(cc) beginning at least one year
22 before the child reaches the age of
23 majority under State law, a statement
24 that the child has been informed of
25 his or her rights under this title, if



1 any, that will transfer to the child on
2 reaching the age of majority under
3 section 615(m); and

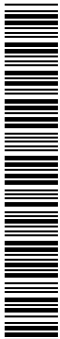
4 “(VIII) a statement of—

5 “(aa) how the child’s
6 progress toward the annual goals
7 described in subclause (II) will be
8 measured; and

9 “(bb) how the child’s par-
10 ents will be regularly informed
11 (by such means as periodic report
12 cards), at least as often as par-
13 ents are informed of their non-
14 disabled children’s progress, of
15 the sufficiency of their child’s
16 progress toward the annual goals
17 described in subclause (II).

18 “(ii) RULE OF CONSTRUCTION.—
19 Nothing in this subparagraph shall be con-
20 strued to require—

21 “(I) that additional information
22 be included in a child’s IEP beyond
23 what is required in this subsection;
24 and



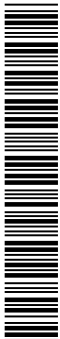
1 “(II) the IEP Team to include
2 information under one component of a
3 child’s IEP that is already contained
4 under another component of such
5 IEP.

6 “(B) INDIVIDUALIZED EDUCATION PRO-
7 GRAM TEAM.—The term ‘individualized edu-
8 cation program team’ or ‘IEP Team’ means a
9 group of individuals composed of—

10 “(i) the parents of a child with a dis-
11 ability;

12 “(ii) a regular education teacher of
13 such child, but such teacher shall not be
14 required to attend a meeting or part of a
15 meeting of the IEP Team involving issues
16 not related to the child’s participation in
17 the regular education environment, nor
18 shall multiple regular education teachers, if
19 the child has more than one regular edu-
20 cation teacher, be required to attend a
21 meeting, or part of a meeting, of the IEP
22 team;

23 “(iii) at least one special education
24 teacher, or where appropriate, at least one
25 special education provider of such child;



1 “(iv) a representative of the local edu-
2 cational agency who—

3 “(I) is qualified to provide, or su-
4 pervise the provision of, specially de-
5 signed instruction to meet the unique
6 needs of children with disabilities;

7 “(II) is knowledgeable about the
8 general education curriculum; and

9 “(III) is knowledgeable about the
10 availability of resources of the local
11 educational agency;

12 “(v) an individual who can interpret
13 the instructional implications of evaluation
14 results, who may be a member of the team
15 described in clauses (ii) through (vi);

16 “(vi) at the discretion of the parent or
17 the agency, other individuals who have
18 knowledge or special expertise regarding
19 the child, including related services per-
20 sonnel as appropriate; and

21 “(vii) whenever appropriate, the child
22 with a disability.

23 “(2) REQUIREMENT THAT PROGRAM BE IN EF-
24 FECT.—



1 “(A) IN GENERAL.—At the beginning of
2 each school year, each local educational agency,
3 State educational agency, or other State agen-
4 cy, as the case may be, shall have in effect, for
5 each child with a disability in its jurisdiction,
6 an individualized education program, as defined
7 in paragraph (1)(A).

8 “(B) PROGRAM FOR CHILD AGED 3
9 THROUGH 5.—In the case of a child with a dis-
10 ability aged 3 through 5 (or, at the discretion
11 of the State educational agency, a 2 year-old
12 child with a disability who will turn age 3 dur-
13 ing the school year), the IEP Team shall con-
14 sider the individualized family service plan that
15 contains the material described in section 636,
16 and that is developed in accordance with this
17 section, and the individualized family service
18 plan may serve as the IEP of the child if using
19 that plan as the IEP is—

20 “(i) consistent with State policy; and

21 “(ii) agreed to by the agency and the
22 child’s parents.

23 “(3) DEVELOPMENT OF IEP.—



1 “(A) IN GENERAL.—In developing each
2 child’s IEP, the IEP Team, subject to subpara-
3 graph (C), shall consider—

4 “(i) the results of the initial evalua-
5 tion or most recent evaluation of the child;

6 “(ii) the academic and developmental
7 needs of the child;

8 “(iii) the strengths of the child; and

9 “(iv) the concerns of the parents for
10 enhancing the education of their child.

11 “(B) CONSIDERATION OF SPECIAL FAC-
12 TORS.—The IEP Team shall—

13 “(i) in the case of a child whose be-
14 havior impedes his or her learning or that
15 of others, consider the use of positive be-
16 havioral interventions and supports, and
17 other strategies, to address that behavior;

18 “(ii) in the case of a child with limited
19 English proficiency, consider the language
20 needs of the child as such needs relate to
21 the child’s IEP;

22 “(iii) in the case of a child who is
23 blind or visually impaired, provide for in-
24 struction in Braille and the use of Braille
25 unless the IEP Team determines, after an



1 evaluation of the child's reading and writ-
2 ing skills, needs, and appropriate reading
3 and writing media (including an evaluation
4 of the child's future needs for instruction
5 in Braille or the use of Braille), that in-
6 struction in Braille or the use of Braille is
7 not appropriate for the child;

8 “(iv) consider the communication
9 needs of the child, and in the case of a
10 child who is deaf or hard of hearing, con-
11 sider the child's language and communica-
12 tion needs, opportunities for direct commu-
13 nications with peers and professional per-
14 sonnel in the child's language and commu-
15 nication mode, academic level, and full
16 range of needs, including opportunities for
17 direct instruction in the child's language
18 and communication mode; and

19 “(v) consider whether the child needs
20 assistive technology devices and services.

21 “(C) REQUIREMENT WITH RESPECT TO
22 REGULAR EDUCATION TEACHER.—The regular
23 education teacher of the child, if a member of
24 the IEP Team pursuant to paragraph
25 (1)(B)(ii), shall, to the extent appropriate, par-

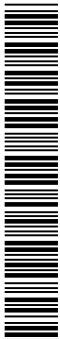


1 ticipate in the development of the IEP of the
2 child, including the determination of appro-
3 priate positive behavioral interventions and sup-
4 ports, and other strategies and the determina-
5 tion of supplementary aids and services, pro-
6 gram modifications, and support for school per-
7 sonnel consistent with paragraph (1)(A)(i)(III).

8 “(D) IEP TEAM ATTENDANCE.—The par-
9 ent of a child with a disability and the local
10 educational agency may jointly excuse any
11 member of the IEP Team from attending all or
12 part of an IEP meeting if they agree that the
13 member’s attendance is not necessary. The IEP
14 Team shall obtain the member’s input prior to
15 an IEP meeting from which the member is ex-
16 cused.

17 “(E) AGREEMENT ON MEETING.—In mak-
18 ing changes to a child’s IEP after the annual
19 IEP meeting, the parent of a child with a dis-
20 ability and the local educational agency may
21 agree not to reconvene the IEP team and in-
22 stead develop a written document to amend or
23 modify the child’s current IEP.

24 “(F) CONSOLIDATION OF IEP TEAM MEET-
25 INGS.—To the extent possible, the local edu-



1 educational agency shall encourage the consolida-
2 tion of IEP Team meetings for a child.

3 “(G) AMENDMENTS.—Changes to the IEP
4 may be made either by the entire IEP Team or,
5 as provided in subparagraph (E), by amending
6 the IEP rather than by redrafting the entire
7 IEP.

8 “(4) REVIEW AND REVISION OF IEP.—

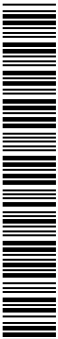
9 “(A) IN GENERAL.—The local educational
10 agency shall ensure that, subject to subpara-
11 graph (B), the IEP Team—

12 “(i) reviews the child’s IEP periodi-
13 cally, but not less than annually, to deter-
14 mine whether the annual goals for the
15 child are being achieved; and

16 “(ii) revises the IEP as appropriate to
17 address—

18 “(I) any lack of expected
19 progress toward the annual goals and
20 in the general education curriculum,
21 where appropriate;

22 “(II) the results of any reevalua-
23 tion conducted under this section;



1 “(III) information about the
2 child provided to, or by, the parents,
3 as described in subsection (c)(1)(B);

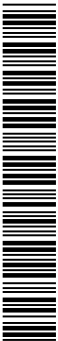
4 “(IV) the child’s anticipated
5 needs; or

6 “(V) other matters.

7 “(B) REQUIREMENT WITH RESPECT TO
8 REGULAR EDUCATION TEACHER.—The regular
9 education teacher of the child, if a member of
10 the IEP Team, shall, consistent with this sec-
11 tion, participate in the review and revision of
12 the IEP of the child.

13 “(5) MULTI-YEAR IEP.—

14 “(A) DEVELOPMENT.—The local edu-
15 cational agency may offer to the parent of a
16 child with a disability the option of developing
17 a comprehensive multi-year IEP, not to exceed
18 3 years, that is designed to cover the natural
19 transition points for the child. With the consent
20 of the parent, the IEP Team shall develop an
21 IEP, as described in paragraphs (1) and (3),
22 that is designed to serve the child for the ap-
23 propriate multi-year period, which includes a
24 statement of—



1 “(i) measurable goals pursuant to
2 paragraph (1)(A)(i)(II), coinciding with
3 natural transition points for the child, that
4 will enable the child to be involved in and
5 make progress in the general education
6 curriculum and that will meet the child’s
7 other needs that result from the child’s
8 disability; and

9 “(ii) measurable annual goals for de-
10 termining progress toward meeting the
11 goals described in clause (i).

12 “(B) REVIEW AND REVISION OF MULTI-
13 YEAR IEP.—

14 “(i) REQUIREMENT.—The IEP Team
15 shall conduct a review under paragraph (4)
16 of the child’s multi-year IEP at each of the
17 child’s natural transition points.

18 “(ii) STREAMLINED ANNUAL REVIEW
19 PROCESS.—In years other than a child’s
20 natural transition points, the local edu-
21 cational agency shall ensure that the IEP
22 Team—

23 “(I) provides an annual review of
24 the child’s IEP to determine the
25 child’s current levels of progress and



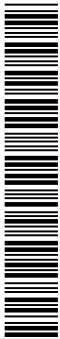
1 determine whether the annual goals
2 for the child are being achieved; and

3 “(II) amends the IEP, as appro-
4 priate, to enable the child to continue
5 to meet the measurable goals set out
6 in the IEP.

7 “(iii) COMPREHENSIVE REVIEW PROC-
8 ESS.—If the IEP Team determines, on the
9 basis of the review under clause (i), that
10 the child is not making sufficient progress
11 toward the goals described in subpara-
12 graph (A), the local educational agency
13 shall ensure that the IEP Team reviews
14 the IEP under paragraph (4), within 30
15 calendar days.

16 “(iv) PARENTAL PREFERENCE.—At
17 the request of the parent, the IEP Team
18 shall conduct a review under paragraph (4)
19 of the child’s multi-year IEP rather than a
20 streamlined annual review under clause
21 (ii).

22 “(C) DEFINITION.—As used in this para-
23 graph, the term ‘natural transition points’
24 means those periods that are close in time to
25 the transition of a child with a disability from



1 preschool to elementary grades, from elemen-
2 tary grades to middle or junior high school
3 grades, from middle or junior high school
4 grades to high school grades, and from high
5 school grades to post-secondary activities, but
6 in no case longer than three years.

7 “(6) FAILURE TO MEET TRANSITION OBJEC-
8 TIVES.—If a participating agency, other than the
9 local educational agency, fails to provide the transi-
10 tion services described in the IEP in accordance with
11 paragraph (1)(A)(i)(VII), the local educational agen-
12 cy shall reconvene the IEP Team to identify alter-
13 native strategies to meet the transition objectives for
14 the child set out in that program.

15 “(7) CHILDREN WITH DISABILITIES IN ADULT
16 PRISONS.—

17 “(A) IN GENERAL.—The following require-
18 ments do not apply to children with disabilities
19 who are convicted as adults under State law
20 and incarcerated in adult prisons:

21 “(i) The requirements contained in
22 section 612(a)(16) and paragraph
23 (1)(A)(i)(V) of this subsection (relating to
24 participation of children with disabilities in
25 general assessments).



1 “(ii) The requirements of items (aa)
2 and (bb) of paragraph (1)(A)(i)(VII) of
3 this subsection (relating to transition plan-
4 ning and transition services), do not apply
5 with respect to such children whose eligi-
6 bility under this part will end, because of
7 their age, before they will be released from
8 prison.

9 “(B) ADDITIONAL REQUIREMENT.—If a
10 child with a disability is convicted as an adult
11 under State law and incarcerated in an adult
12 prison, the child’s IEP Team may modify the
13 child’s IEP or placement notwithstanding the
14 requirements of sections 612(a)(5)(A) and
15 614(d)(1)(A) if the State has demonstrated a
16 bona fide security or compelling penological in-
17 terest that cannot otherwise be accommodated.

18 “(e) EDUCATIONAL PLACEMENTS.—Each local edu-
19 cational agency or State educational agency shall ensure
20 that the parents of each child with a disability are mem-
21 bers of any group that makes decisions on the educational
22 placement of their child.

23 “(f) ALTERNATIVE MEANS OF MEETING PARTICIPA-
24 TION.—When conducting IEP team meetings and place-
25 ment meetings pursuant to this section and 615, the par-



1 ent of a child with a disability and a local educational
2 agency may agree to use alternative means of meeting par-
3 ticipation, such as video conferences and conference
4 calls.”.

5 **SEC. 205. PROCEDURAL SAFEGUARDS.**

6 (a) ESTABLISHMENT OF PROCEDURES.—Section
7 615(a) of the Individuals with Disabilities Education Act
8 (20 U.S.C. 1415(a)) is amended to read as follows:

9 “(a) ESTABLISHMENT OF PROCEDURES.—Any State
10 educational agency, State agency, or local educational
11 agency that receives assistance under this part shall estab-
12 lish and maintain procedures in accordance with this sec-
13 tion to ensure that children with disabilities and their par-
14 ents are guaranteed procedural safeguards with respect to
15 the provision of free appropriate public education by such
16 agencies.”.

17 (b) TYPES OF PROCEDURES.—Section 615(b) of the
18 Individuals with Disabilities Education Act (20 U.S.C.
19 1415(b)) is amended to read as follows:

20 “(b) TYPES OF PROCEDURES.—The procedures re-
21 quired by this section shall include—

22 “(1) an opportunity for the parents of a child
23 with a disability to examine all records relating to
24 such child and to participate in meetings with re-
25 spect to the identification, evaluation, and edu-



1 cational placement of the child, and the provision of
2 a free appropriate public education to such child,
3 and to obtain an independent educational evaluation
4 of the child;

5 “(2) procedures to protect the rights of the
6 child whenever the parents of the child are not
7 known, the agency cannot, after reasonable efforts,
8 locate the parents, or the child is a ward of the
9 State, including the assignment of an individual
10 (who shall not be an employee of the State edu-
11 cational agency, the local educational agency, or any
12 other agency that is involved in the education or
13 care of the child) to act as a surrogate for the par-
14 ents;

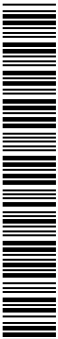
15 “(3) written prior notice to the parents of the
16 child whenever such agency—

17 “(A) proposes to initiate or change; or

18 “(B) refuses to initiate or change;

19 the identification, evaluation, or educational place-
20 ment of the child, in accordance with subsection (c),
21 or the provision of a free appropriate public edu-
22 cation to the child;

23 “(4) procedures designed to ensure that the no-
24 tice required by paragraph (3) is in the native lan-



1 guage of the parents, unless it clearly is not feasible
2 to do so;

3 “(5) an opportunity for mediation and vol-
4 untary binding arbitration, in accordance with sub-
5 section (e);

6 “(6) an opportunity to present complaints—

7 “(A) with respect to any matter relating to
8 the identification, evaluation, or educational
9 placement of the child, or the provision of a free
10 appropriate public education to such child; and

11 “(B) which set forth a violation that oc-
12 curred not more than one year before the com-
13 plaint is filed;

14 “(7)(A) procedures that require the parent of a
15 child with a disability, or the attorney representing
16 the child, to provide notice (which shall remain con-
17 fidential)—

18 “(i) to the local educational agency or
19 State educational agency (if the State edu-
20 cational agency is the direct provider of services
21 pursuant to section 613(g)), in the complaint
22 filed under paragraph (6); and

23 “(ii) that shall include—

24 “(I) the name of the child, the ad-
25 dress of the residence of the child (or, in



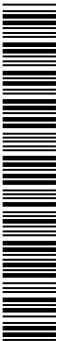
1 the case of a homeless child or youth
2 (within the meaning of section 725(2) of
3 the McKinney-Vento Homeless Assistance
4 Act (42 U.S.C. 11434a(2)), available con-
5 tact information for the child), and the
6 name of the school the child is attending;

7 “(II) a description of the specific
8 issues regarding the nature of the problem
9 of the child relating to such proposed initi-
10 ation or change, including facts relating to
11 such problem; and

12 “(III) a proposed resolution of the
13 problem to the extent known and available
14 to the parents at the time;

15 “(B) a requirement that a parent of a child
16 with a disability may not have a due process hearing
17 until the parent, or the attorney representing the
18 child, files a notice that meets the requirements of
19 this paragraph; and

20 “(8) procedures that require the State edu-
21 cational agency to develop a model form to assist
22 parents in filing a complaint in accordance with
23 paragraph (7).”.



1 (c) CONTENT OF PRIOR WRITTEN NOTICE.—Section
2 615(c) of the Individuals with Disabilities Education Act
3 (20 U.S.C. 1415(c)) is amended to read as follows:

4 “(c) CONTENT OF PRIOR WRITTEN NOTICE.—The
5 notice required by subsection (b)(3) shall include—

6 “(1) a description of the action proposed or re-
7 fused by the agency;

8 “(2) an explanation of why the agency proposes
9 or refuses to take the action and a description of
10 each evaluation procedure, test, record, or report the
11 agency used as a basis for the proposed or refused
12 action;

13 “(3) a statement that the parents of a child
14 with a disability have protection under the proce-
15 dural safeguards of this part and, if this notice is
16 not an initial referral for evaluation, the means by
17 which a copy of a description of the procedural safe-
18 guards can be obtained; and

19 “(4) sources for parents to contact to obtain as-
20 sistance in understanding the provisions of this
21 part.”.

22 (d) PROCEDURAL SAFEGUARDS NOTICE.—Section
23 615(d) of the Individuals with Disabilities Education Act
24 (20 U.S.C. 1415(d)) is amended to read as follows:

25 “(d) PROCEDURAL SAFEGUARDS NOTICE.—



1 “(1) IN GENERAL.—A copy of the procedural
2 safeguards available to the parents of a child with
3 a disability shall be given to the parents, at a
4 minimum—

5 “(A) upon initial referral or parental re-
6 quest for evaluation;

7 “(B) annually, at the beginning of the
8 school year; and

9 “(C) upon written request by a parent.

10 “(2) CONTENTS.—The procedural safeguards
11 notice shall include a description of the procedural
12 safeguards, written in the native language of the
13 parents, unless it clearly is not feasible to do so, and
14 written in an easily understandable manner, avail-
15 able under this section and under regulations pro-
16 mulgated by the Secretary relating to—

17 “(A) independent educational evaluation;

18 “(B) prior written notice;

19 “(C) parental consent;

20 “(D) access to educational records;

21 “(E) opportunity to present complaints;

22 “(F) the child’s placement during pend-
23 ency of due process proceedings;



1 “(G) procedures for students who are sub-
2 ject to placement in an interim alternative edu-
3 cational setting;

4 “(H) requirements for unilateral placement
5 by parents of children in private schools at pub-
6 lic expense;

7 “(I) mediation, early dispute resolution,
8 and voluntary binding arbitration;

9 “(J) due process hearings, including re-
10 quirements for disclosure of evaluation results
11 and recommendations;

12 “(K) civil actions; and

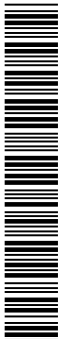
13 “(L) attorneys’ fees.”.

14 (e) MEDIATION AND VOLUNTARY BINDING ARBITRA-
15 TION.—Section 615(e) of the Individuals with Disabilities
16 Education Act (20 U.S.C. 1415(e)) is amended to read
17 as follows:

18 “(e) MEDIATION AND VOLUNTARY BINDING ARBI-
19 TRATION.—

20 “(1) MEDIATION.—

21 “(A) IN GENERAL.—Any State educational
22 agency or local educational agency that receives
23 assistance under this part shall ensure that pro-
24 cedures are established and implemented to
25 allow parties to disputes involving any matter,



1 including matters arising prior to the filing of
2 a complaint pursuant to subsection (b)(6), to
3 resolve such disputes through a mediation proc-
4 ess.

5 “(B) REQUIREMENTS.—Such procedures
6 shall meet the following requirements:

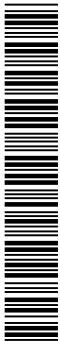
7 “(i) The procedures shall ensure that
8 the mediation process—

9 “(I) is voluntary on the part of
10 the parties;

11 “(II) is not used to deny or delay
12 a parent’s right to a due process hear-
13 ing under subsection (f), or to deny
14 any other rights afforded under this
15 part; and

16 “(III) is conducted by a qualified
17 and impartial mediator who is trained
18 in effective mediation techniques.

19 “(ii) A local educational agency or a
20 State agency may establish procedures to
21 offer to parents who choose not to use the
22 mediation process, an opportunity to meet,
23 at a time and location convenient to the
24 parents, with a disinterested party who is
25 under contract with—



1 “(I) a parent and community
2 training and information center in the
3 State established under section 672;
4 or

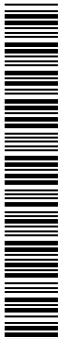
5 “(II) an appropriate alternative
6 dispute resolution entity;
7 to encourage the use, and explain the bene-
8 fits, of the mediation process to the par-
9 ents.

10 “(iii) The State shall maintain a list
11 of individuals who are qualified mediators
12 and knowledgeable in laws and regulations
13 relating to the provision of special edu-
14 cation and related services.

15 “(iv) The State shall bear the cost of
16 the mediation process, including the costs
17 of meetings described in clause (ii).

18 “(v) Each session in the mediation
19 process shall be scheduled in a timely man-
20 ner and shall be held in a location that is
21 convenient to the parties to the dispute.

22 “(vi) An agreement reached by the
23 parties to the dispute in the mediation
24 process shall be set forth in a written me-
25 diation agreement.



1 “(vii) Discussions that occur during
2 the mediation process shall be confidential
3 and may not be used as evidence in any
4 subsequent due process hearings or civil
5 proceedings and the parties to the medi-
6 ation process may be required to sign a
7 confidentiality pledge prior to the com-
8 mencement of such process.

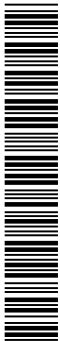
9 “(2) VOLUNTARY BINDING ARBITRATION.—

10 “(A) IN GENERAL.—A State educational
11 agency that receives assistance under this part
12 shall ensure that procedures are established and
13 implemented to allow parties to disputes involv-
14 ing any matter described in subsection (b)(6) to
15 resolve such disputes through voluntary binding
16 arbitration, which shall be available when a
17 hearing is requested under subsection (f) or (j).

18 “(B) REQUIREMENTS.—Such procedures
19 shall meet the following requirements:

20 “(i) The procedures shall ensure that
21 the voluntary binding arbitration process—

22 “(I) is voluntarily and knowingly
23 agreed to in writing by the parties;
24 and



1 “(II) is conducted by a qualified
2 and impartial arbitrator.

3 “(ii) A local educational agency or a
4 State agency shall ensure that parents who
5 choose to use voluntary binding arbitration
6 understand that the process is in lieu of a
7 due process hearing under subsection (f) or
8 (j) and that the decision made by the arbi-
9 trator is final, unless there is fraud by a
10 party or the arbitrator or misconduct on
11 the part of the arbitrator.

12 “(iii) The parties shall jointly agree to
13 use an arbitrator from a list that the State
14 shall maintain of individuals who are quali-
15 fied arbitrators and knowledgeable in laws
16 and regulations relating to the provision of
17 special education and related services.

18 “(iv) The arbitration shall be con-
19 ducted according to State law on arbitra-
20 tion or, if there is no such applicable State
21 law, in a manner consistent with the Re-
22 vised Uniform Arbitration Act.

23 “(v) The voluntary binding arbitration
24 shall be scheduled in a timely manner and



1 shall be held in a location that is conven-
2 ient to the parties to the dispute.”.

3 (f) IMPARTIAL DUE PROCESS HEARING.—Section
4 615(f) of the Individuals with Disabilities Education Act
5 (20 U.S.C. 1415(f)) is amended to read as follows:

6 “(f) IMPARTIAL DUE PROCESS HEARING.—

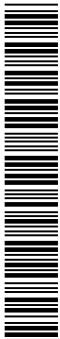
7 “(1) IN GENERAL.—

8 “(A) ACCESS TO HEARING.—Whenever a
9 complaint has been received under subsection
10 (b)(6) or (j) of this section, the parents or the
11 local educational agency involved in such com-
12 plaint shall have an opportunity for an impar-
13 tial due process hearing, which shall be con-
14 ducted by the State educational agency.

15 “(B) RESOLUTION SESSION.—

16 “(i) IN GENERAL.—Prior to the op-
17 portunity for an impartial due process
18 hearing under subparagraph (A), the local
19 educational agency shall convene a meeting
20 with the parents and a team of qualified
21 professionals consisting of individuals list-
22 ed in section 614(d)(1)(B)—

23 “(I) within 15 days of receiving
24 notice of the parents’ complaint; and



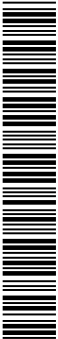
1 “(II) where the parents of the
2 child discuss their complaint, and the
3 specific issues that form the basis of
4 the complaint, and the local edu-
5 cational agency is provided the oppor-
6 tunity to resolve the complaint;
7 unless the parents and the local edu-
8 cational agency agree in writing to waive
9 such meeting.

10 “(ii) DUE PROCESS HEARING.—If the
11 local educational agency has not resolved
12 the complaint to the satisfaction of the
13 parents within 30 days of the receipt of
14 the complaint, the due process hearing
15 shall occur.

16 “(iii) DEFINITION OF MEETING.—A
17 meeting conducted pursuant to clause (i)
18 shall not be considered—

19 “(I) a meeting convened as a re-
20 sult of an administrative hearing or
21 judicial action; or

22 “(II) an administrative hearing
23 or judicial action for purposes of sub-
24 section (h)(3).



1 “(2) DISCLOSURE OF EVALUATIONS AND REC-
2 OMMENDATIONS.—

3 “(A) IN GENERAL.—At least 5 business
4 days prior to a hearing conducted pursuant to
5 paragraph (1), each party shall disclose to all
6 other parties all evaluations completed by that
7 date and recommendations based on the offer-
8 ing party’s evaluations that the party intends to
9 use at the hearing.

10 “(B) FAILURE TO DISCLOSE.—A hearing
11 officer may bar any party that fails to comply
12 with subparagraph (A) from introducing the
13 relevant evaluation or recommendation at the
14 hearing without the consent of the other party.

15 “(3) LIMITATION ON HEARING.—

16 “(A) HEARING OFFICER.—A hearing con-
17 ducted pursuant to paragraph (1)(A) may not
18 be conducted by—

19 “(i) an employee of the State educational
20 agency or the local educational agency involved
21 in the education or care of the child; or

22 “(ii) any person having a personal or pro-
23 fessional interest that would conflict with his or
24 her objectivity in the hearing.



1 “(B) SUBJECT MATTER OF HEARING.—

2 The parents of the child shall not be allowed to
3 raise issues at the due process hearing that
4 were not raised in the complaint or discussed
5 during the meeting conducted pursuant to sub-
6 paragraph (1)(B), unless the local educational
7 agency agrees otherwise.

8 “(C) DECISION OF HEARING OFFICER.—A
9 decision made by a hearing officer must be
10 based on a determination of whether or not the
11 child received a free appropriate public edu-
12 cation.”.

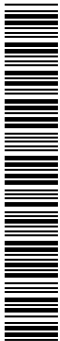
13 (g) APPEAL.—Section 615 of the Individuals with
14 Disabilities Education Act (20 U.S.C. 1415) is amended
15 by striking subsection (g).

16 (h) SAFEGUARDS.—Section 615 of the Individuals
17 with Disabilities Education Act (20 U.S.C. 1415) is
18 amended—

19 (1) by redesignating subsection (h) as sub-
20 section (g); and

21 (2) by amending subsection (g) (as redesign-
22 nated) to read as follows:

23 “(g) SAFEGUARDS.—Any party to a hearing con-
24 ducted pursuant to subsection (f) or (j) shall be
25 accorded—



1 “(1) the right to be represented by counsel and
2 by non-attorney advocates and to be accompanied
3 and advised by individuals with special knowledge or
4 training with respect to the problems of children
5 with disabilities;

6 “(2) the right to present evidence and confront,
7 cross-examine, and compel the attendance of wit-
8 nesses;

9 “(3) the right to a written, or, at the option of
10 the parents, electronic verbatim record of such hear-
11 ing; and

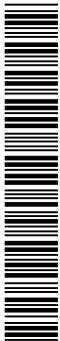
12 “(4) the right to written, or, at the option of
13 the parents, electronic findings of fact and decisions
14 (which findings and decisions shall be made available
15 to the public consistent with the requirements of sec-
16 tion 617(d)) (relating to the confidentiality of data,
17 information, and records).”.

18 (i) ADMINISTRATIVE PROCEDURES.—Section 615 of
19 the Individuals with Disabilities Education Act (20 U.S.C.
20 1415) is amended—

21 (1) by redesignating subsection (i) as subsection
22 (h); and

23 (2) in subsection (h) (as redesignated)—

24 (A) in paragraph (1)—



1 (i) by striking “IN GENERAL.—” and
2 all that follows through “A decision made
3 in a hearing” and inserting “IN GEN-
4 ERAL.—A decision made in a hearing”;

5 (ii) by striking “(k)” and inserting
6 “(j)”;

7 (iii) by striking “subsection (g) and”;
8 and

9 (iv) by striking subparagraph (B);
10 and

11 (B) in paragraph (2)(A), by striking “sub-
12 section (f) or (k) who does not have the right
13 to an appeal under subsection (g)” and insert-
14 ing “subsection (f) or (j)”.

15 (j) MAINTENANCE OF CURRENT EDUCATIONAL
16 PLACEMENT.—Section 615 of the Individuals with Dis-
17 abilities Education Act (20 U.S.C. 1415) is amended—

18 (1) by redesignating subsection (j) as sub-
19 section (i); and

20 (2) by amending subsection (i) (as redesign-
21 nated) to read as follows:

22 “(i) MAINTENANCE OF CURRENT EDUCATIONAL
23 PLACEMENT.—Except as provided in subsection (j)(4),
24 during the pendency of any proceedings conducted pursu-
25 ant to this section, unless the State or local educational



1 agency and the parents otherwise agree, the child shall
2 remain in the then-current educational placement of such
3 child, or, if applying for initial admission to a public
4 school, shall, with the consent of the parents, be placed
5 in the public school program until all such proceedings
6 have been completed.”.

7 (k) PLACEMENT IN ALTERNATIVE EDUCATIONAL
8 SETTING.—Section 615 of the Individuals with Disabil-
9 ities Education Act (20 U.S.C. 1415) is amended—

10 (1) by redesignating subsection (k) as sub-
11 section (j); and

12 (2) by amending subsection (j) (as redesign-
13 nated) to read as follows:

14 “(j) PLACEMENT IN ALTERNATIVE EDUCATIONAL
15 SETTING.—

16 “(1) AUTHORITY OF SCHOOL PERSONNEL.—

17 “(A) IN GENERAL.—School personnel
18 under this section may order a change in the
19 placement of a child with a disability who vio-
20 lates a code of student conduct policy to an ap-
21 propriate interim alternative educational set-
22 ting, another setting, or suspension, for not
23 more than 10 school days (to the extent such
24 alternatives would be applied to children with-
25 out disabilities).



1 “(B) ADDITIONAL AUTHORITY.—Subject
2 to subparagraph (C), and notwithstanding any
3 other provision of this Act, school personnel
4 under this section may order a change in the
5 placement of a child with a disability who vio-
6 lates a code of student conduct policy to an ap-
7 propriate interim alternative educational setting
8 selected so as to enable the child to continue to
9 participate in the general education curriculum,
10 although in another setting, and to progress to-
11 ward meeting the goals set out in the child’s
12 IEP, for not more than 45 school days (to the
13 extent such alternative and such duration would
14 be applied to children without disabilities, and
15 which may include consideration of unique cir-
16 cumstances on a case-by-case basis), except that
17 the change in placement may last beyond 45
18 school days if required by State law or regula-
19 tion for the violation in question, to ensure the
20 safety and appropriate educational atmosphere
21 in the schools under the jurisdiction of the local
22 educational agency.

23 “(C) SERVICES.—A child with a disability
24 who is removed from the child’s current place-
25 ment under subparagraph (B) shall—



1 “(i) continue to receive educational
2 services selected so as to enable the child
3 to continue to participate in the general
4 education curriculum, although in another
5 setting, and to progress toward meeting
6 the goals set out in the child’s IEP; and

7 “(ii) continue to receive behavioral
8 intervention services designed to address
9 the behavior violation so that it does not
10 recur.

11 “(2) DETERMINATION OF SETTING.—The alter-
12 native educational setting described in paragraph
13 (1)(B) shall be determined by the IEP Team.

14 “(3) PARENT APPEAL.—

15 “(A) IN GENERAL.—If the parent of a
16 child with a disability disagrees with any deci-
17 sion regarding placement or punishment under
18 this section, the parent may request a hearing.

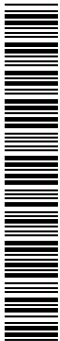
19 “(B) AUTHORITY OF HEARING OFFICER.—
20 If a parent of a child with a disability disagrees
21 with a decision regarding placement of the child
22 or punishment of the child under this section,
23 including duration of the punishment, the hear-
24 ing officer may determine whether the decision
25 regarding such action was appropriate.



1 “(4) PLACEMENT DURING APPEALS.—When a
2 parent requests a hearing regarding a disciplinary
3 action described in paragraph (1)(B) to challenge
4 the interim alternative educational setting or the vio-
5 lation of the code of student conduct policy, the child
6 shall remain in the interim alternative educational
7 setting pending the decision of the hearing officer or
8 until the expiration of the time period provided for
9 in paragraph (1)(B), whichever occurs first, unless
10 the parent and the State or local educational agency
11 agree otherwise.

12 “(5) PROTECTIONS FOR CHILDREN NOT YET
13 ELIGIBLE FOR SPECIAL EDUCATION AND RELATED
14 SERVICES.—

15 “(A) IN GENERAL.—A child who has not
16 been determined to be eligible for special edu-
17 cation and related services under this part and
18 who has engaged in behavior that violates a
19 code of student conduct policy, may assert any
20 of the protections provided for in this part if
21 the local educational agency had knowledge (as
22 determined in accordance with this paragraph)
23 that the child was a child with a disability be-
24 fore the behavior that precipitated the discipli-
25 nary action occurred.



1 “(B) BASIS OF KNOWLEDGE.—A local edu-
2 cational agency shall be deemed to have knowl-
3 edge that a child is a child with a disability if,
4 before the behavior that precipitated the dis-
5 ciplinary action occurred—

6 “(i) the parent of the child has ex-
7 pressed concern in writing (unless the par-
8 ent is illiterate or has a disability that pre-
9 vents compliance with the requirements
10 contained in this clause) to personnel of
11 the appropriate educational agency that
12 the child is in need of special education
13 and related services;

14 “(ii) the parent of the child has re-
15 quested an evaluation of the child pursuant
16 to section 614; or

17 “(iii) the teacher of the child, or other
18 personnel of the local educational agency,
19 has expressed concern in writing about the
20 behavior or performance of the child to the
21 director of special education of such agen-
22 cy or to other personnel of the agency.

23 “(C) CONDITIONS THAT APPLY IF NO
24 BASIS OF KNOWLEDGE.—



1 “(i) IN GENERAL.—If a local edu-
2 cational agency does not have knowledge
3 that a child is a child with a disability (in
4 accordance with subparagraph (B)) prior
5 to taking disciplinary measures against the
6 child, the child may be subjected to dis-
7 ciplinary measures applied to children
8 without disabilities who engaged in com-
9 parable behaviors consistent with clause
10 (ii).

11 “(ii) LIMITATIONS.—If a request is
12 made for an evaluation of a child during
13 the time period in which the child is sub-
14 jected to disciplinary measures under para-
15 graph (1) or (2), the evaluation shall be
16 conducted in an expedited manner. If the
17 child is determined to be a child with a dis-
18 ability, taking into consideration informa-
19 tion from the evaluation conducted by the
20 agency and information provided by the
21 parents, the agency shall provide special
22 education and related services in accord-
23 ance with this part, except that, pending
24 the results of the evaluation, the child shall



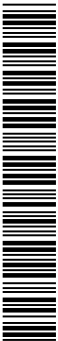
1 remain in the educational placement deter-
2 mined by school authorities.

3 “(6) REFERRAL TO AND ACTION BY LAW EN-
4 FORCEMENT AND JUDICIAL AUTHORITIES.—

5 “(A) IN GENERAL.—Nothing in this part
6 shall be construed to prohibit an agency from
7 reporting a crime committed by a child with a
8 disability to appropriate authorities or to pre-
9 vent State law enforcement and judicial au-
10 thorities from exercising their responsibilities
11 with regard to the application of Federal and
12 State law to crimes committed by a child with
13 a disability.

14 “(B) TRANSMISSION OF RECORDS.—An
15 agency reporting a crime committed by a child
16 with a disability shall ensure that copies of the
17 special education and disciplinary records of the
18 child are transmitted for consideration by the
19 appropriate authorities to whom it reports the
20 crime.”.

21 (l) RULE OF CONSTRUCTION.—Section 615 of the In-
22 dividuals with Disabilities Education Act (20 U.S.C.
23 1415) is amended by redesignating subsection (l) as sub-
24 section (k).



1 (m) RULE OF CONSTRUCTION.—Section 615 of the
2 Individuals with Disabilities Education Act (20 U.S.C.
3 1415) is amended—

4 (1) by redesignating subsection (m) as sub-
5 section (l); and

6 (2) by amending subsection (l) (as redesign-
7 nated) to read as follows:

8 “(l) TRANSFER OF PARENTAL RIGHTS AT AGE OF
9 MAJORITY.—

10 “(1) IN GENERAL.—A State that receives
11 amounts from a grant under this part may provide
12 that, when a child with a disability reaches the age
13 of majority under State law (except for a child with
14 a disability who has been determined to be incom-
15 petent under State law)—

16 “(A) the public agency shall provide any
17 notice required by this section to both the indi-
18 vidual and the parents;

19 “(B) all other rights accorded to parents
20 under this part transfer to the child;

21 “(C) the agency shall notify the individual
22 and the parents of the transfer of rights; and

23 “(D) all rights accorded to parents under
24 this part transfer to children who are incarcer-



1 ated in an adult or juvenile Federal, State, or
2 local correctional institution.

3 “(2) SPECIAL RULE.—If, under State law, a
4 child with a disability who has reached the age of
5 majority under State law, who has not been deter-
6 mined to be incompetent, but who is determined not
7 to have the ability to provide informed consent with
8 respect to the educational program of the child, the
9 State shall establish procedures for appointing the
10 parent of the child, or if the parent is not available,
11 another appropriate individual, to represent the edu-
12 cational interests of the child throughout the period
13 of eligibility of the child under this part.”.

14 **SEC. 206. MONITORING, ENFORCEMENT, WITHHOLDING,**
15 **AND JUDICIAL REVIEW.**

16 Section 616 of the Individuals with Disabilities Edu-
17 cation Act (20 U.S.C. 1416) is amended—

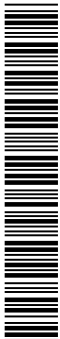
18 (1) in the heading to read as follows:

19 **“SEC. 616. MONITORING, ENFORCEMENT, WITHHOLDING,**
20 **AND JUDICIAL REVIEW.”;**

21 (2) by redesignating subsections (a) through (c)
22 as subsections (e) through (g), respectively; and

23 (3) by inserting before subsection (e) (as redes-
24 igned) the following:

25 “(a) FEDERAL AND STATE MONITORING.—



1 “(1) IN GENERAL.—The Secretary shall mon-
2 itor implementation of this Act.

3 “(2) FOCUSED MONITORING.—The primary
4 focus of Federal monitoring activities shall be to im-
5 prove educational results for all children with dis-
6 abilities, while ensuring compliance with program re-
7 quirements, with a particular emphasis on those re-
8 quirements that are most closely related to improv-
9 ing educational results for children with disabilities.

10 “(b) INDICATORS.—

11 “(1) REQUIRED INDICATORS.—The Secretary
12 shall examine relevant information and data related
13 to States’ progress on improving educational results
14 for children with disabilities by reviewing—

15 “(A) achievement results of children with
16 disabilities on State or district assessments, in-
17 cluding children with disabilities taking State or
18 district assessments with appropriate accom-
19 modations;

20 “(B) achievement results of children with
21 disabilities on State or district alternate assess-
22 ments;

23 “(C) graduation rates of children with dis-
24 abilities and graduation rates of children with



1 disabilities as compared to graduation rates of
2 nondisabled children; and

3 “(D) dropout rates for children with dis-
4 abilities and dropout rates of children with dis-
5 abilities as compared to dropout rates of non-
6 disabled children.

7 “(2) PERMISSIVE INDICATORS.—The Secretary
8 also may establish other priorities for review of rel-
9 evant information and data, including data provided
10 by States under section 618, and also including the
11 following:

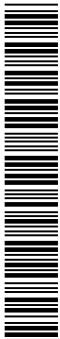
12 “(A) PRIORITIES FOR THIS PART.—The
13 Secretary may give priority to monitoring on
14 the following areas under this part:

15 “(i) Provision of educational services
16 in the least restrictive environment,
17 including—

18 “(I) education of children with
19 disabilities with non-disabled peers to
20 the maximum extent appropriate;

21 “(II) provision of appropriate
22 special education and related services;

23 “(III) access to the general cur-
24 riculum with appropriate accommoda-
25 tions;



1 “(IV) provision of appropriate
2 services to students whose behavior
3 impedes learning; and

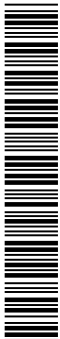
4 “(V) participation and perform-
5 ance of children with disabilities on
6 State and local assessments, including
7 alternate assessments.

8 “(ii) Secondary transition, including
9 the extent to which youth exiting special
10 education are prepared for post-secondary
11 education, employment, and adult life, and
12 are participants in appropriate transition
13 planning while in school.

14 “(iii) State exercise of general super-
15 visory authority, including effective moni-
16 toring and use of complaint resolution, me-
17 diation, and voluntary binding arbitration.

18 “(B) PRIORITIES FOR PART C.—The Sec-
19 retary may give priority to monitoring on the
20 following areas under part C:

21 “(i) Child find and public awareness
22 to support the identification, evaluation
23 and assessment of all eligible infants and
24 toddlers, including the provision of cul-



1 turally relevant materials to inform and
2 promote referral.

3 “(ii) Provision of early intervention
4 services in natural environments, evalua-
5 tion and assessment to identify child needs
6 and family needs related to enhancing the
7 development of the child, and provision of
8 appropriate early intervention services in
9 natural environments to meet the needs of
10 individual children.

11 “(iii) Effective early childhood transi-
12 tion to services under this part.

13 “(iv) State exercise of general super-
14 visory authority, including—

15 “(I) effective monitoring and use
16 of other mechanisms such as com-
17 plaint resolution;

18 “(II) implementation of medi-
19 ation and voluntary binding arbitra-
20 tion; and

21 “(III) coordination of parent and
22 child protections.

23 “(3) DATA COLLECTION AND ANALYSIS.—The
24 Secretary shall review the data collection and anal-
25 ysis capacity of States to ensure that data and infor-



1 mation is collected, analyzed, and accurately re-
2 ported to the Secretary. The Secretary may provide
3 technical assistance to improve the capacity of
4 States to meet data requirements.

5 “(c) ADDITIONAL PRIORITIES.—

6 “(1) IN GENERAL.—The Secretary may develop
7 additional priorities for monitoring the effective im-
8 plementation of this Act.

9 “(2) PUBLIC COMMENT.—The Secretary shall
10 provide a public comment period of at least 30 days
11 on any additional priority proposed under this part
12 or part C.

13 “(3) DATE OF ENFORCEMENT.—The Secretary
14 may not begin to enforce a new priority until one
15 year from the date of publication of the priority in
16 the Federal Register as a final rule.

17 “(d) COMPLIANCE.—

18 “(1) IN GENERAL.—The Secretary shall review
19 State data to determine whether the State is in com-
20 pliance with the provisions of this Act.

21 “(2) LACK OF PROGRESS.—If after examining
22 data, as provided in section (b) or (c), the Secretary
23 determines that a State is not making satisfactory
24 progress in improving educational results for chil-



1 dren with disabilities, the Secretary shall take one or
2 more of the following actions:

3 “(A) Advise the State of available sources
4 of technical assistance that may help the State
5 address the lack of progress, which may include
6 assistance from the Office of Special Education
7 Programs, other offices of the Department of
8 Education, other Federal agencies, technical as-
9 sistance providers approved by the Secretary,
10 and other federally-funded non-profit agencies.
11 Such technical assistance may include—

12 “(i) the provision of advice by experts
13 to address the areas of non-compliance, in-
14 cluding explicit plans for ensuring compli-
15 ance within a specified period of time;

16 “(ii) assistance in identifying and im-
17 plementing professional development, in-
18 structional strategies, and methods of in-
19 struction that are based on scientifically
20 based research;

21 “(iii) designating and using distin-
22 guished superintendents, principals, special
23 education administrators, regular edu-
24 cation teachers, and special education



1 teachers to provide advice, technical assist-
2 ance, and support; and

3 “(iv) devising additional approaches to
4 providing technical assistance, such as col-
5 laborating with institutions of higher edu-
6 cation, educational service agencies, na-
7 tional centers of technical assistance sup-
8 ported under part D, and private providers
9 of scientifically based technical assistance.

10 “(B) Direct the use of State level funds for
11 technical assistance on the area or areas of un-
12 satisfactory performance.

13 “(C) Each year withhold 50 percent of the
14 State’s funds under section 611(f), after pro-
15 viding the State the opportunity to show cause
16 why the withholding should not occur, until the
17 Secretary determines that sufficient progress
18 has been made in improving educational results
19 for children with disabilities.

20 “(3) SUBSTANTIAL NON-COMPLIANCE.—

21 “(A) INITIAL DETERMINATION.—When the
22 Secretary determines that a State is not in sub-
23 stantial compliance with any provision of this
24 part, the Secretary shall take one or more of
25 the following actions:



1 “(i) Require the State to prepare a
2 corrective action plan or improvement plan
3 if the Secretary determines that the State
4 should be able to correct the problem with-
5 in one year.

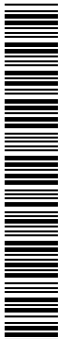
6 “(ii) Identify the State as a high-risk
7 grantee and impose special conditions on
8 the State’s grant.

9 “(iii) Require the State to enter into
10 a compliance agreement under section 457
11 of the General Education Provisions Act, if
12 the Secretary has reason to believe that
13 the State cannot correct the problem with-
14 in one year.

15 “(iv) Recovery of funds under section
16 452 of the General Education Provisions
17 Act.

18 “(v)(I) Withholding of payments
19 under subsection (e).

20 “(II) Pending the outcome of any
21 hearing to withhold payments under sub-
22 section (e), the Secretary may suspend
23 payments to a recipient, suspend the au-
24 thority of the recipient to obligate Federal
25 funds, or both, after such recipient has



1 been given reasonable notice and an oppor-
2 tunity to show cause why future payments
3 or authority to obligate Federal funds
4 should not be suspended.

5 “(B) CONTINUED NON-COMPLIANCE.—

6 “(i) SECRETARIAL ACTION.—If the
7 Secretary has imposed special conditions
8 on a grant under subparagraph (A)(ii) for
9 substantially the same compliance prob-
10 lems for three consecutive years, and at
11 the end of the third year the State has not
12 demonstrated that the violation has been
13 corrected to the satisfaction of the Sec-
14 retary, the Secretary shall take such addi-
15 tional enforcement actions as the Secretary
16 determines to be appropriate from among
17 those actions specified in clauses (iii)
18 through (v) of subparagraph (A).

19 “(ii) REPORT TO CONGRESS.—The
20 Secretary shall report to Congress within
21 30 days of taking enforcement action pur-
22 suant to this paragraph on the specific ac-
23 tion taken and the reasons why enforce-
24 ment action was taken.”.



1 **SEC. 207. ADMINISTRATION.**

2 Section 617 of the Individuals with Disabilities Edu-
3 cation Act (20 U.S.C. 1417) is amended to read as follows:

4 **“SEC. 617. ADMINISTRATION.**

5 “(a) RESPONSIBILITIES OF SECRETARY.—In car-
6 rying out this part, the Secretary shall—

7 “(1) cooperate with, and (directly or by grant
8 or contract) furnish technical assistance necessary
9 to, the State in matters relating to—

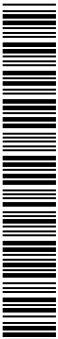
10 “(A) the education of children with disabil-
11 ities; and

12 “(B) carrying out this part; and

13 “(2) provide short-term training programs and
14 institutes.

15 “(b) PROHIBITION AGAINST FEDERAL MANDATES,
16 DIRECTION, OR CONTROL.—Nothing in this Act may be
17 construed to authorize an officer or employee of the Fed-
18 eral Government to mandate, direct, prohibit, or control
19 the specific instructional content, assessment tools or
20 strategies, or program of instruction of any State, local
21 educational agency, IEP Team, or school.

22 “(c) CONFIDENTIALITY.—The Secretary shall take
23 appropriate action, in accordance with section 444 of the
24 General Education Provisions Act (20 U.S.C. 1232g), to
25 ensure the protection of the confidentiality of any person-
26 ally identifiable data, information, and records collected



1 or maintained by the Secretary and by State and local
2 educational agencies pursuant to this part.

3 “(d) PERSONNEL.—The Secretary is authorized to
4 hire qualified personnel necessary to carry out the Sec-
5 retary’s duties under subsection (a) and under sections
6 618 and 661 without regard to the provisions of title 5,
7 United States Code, relating to appointments in the com-
8 petitive service and without regard to chapter 51 and sub-
9 chapter III of chapter 53 of such title relating to classi-
10 fication and general schedule pay rates, except that no
11 more than twenty such personnel shall be employed at any
12 time.

13 “(e) PILOT PROGRAM.—The Secretary is authorized
14 to grant waivers of paperwork requirements under this
15 part for a period of time not to exceed 4 years with respect
16 to not more than 10 States based on proposals submitted
17 by States for addressing reduction of paperwork and non-
18 instructional time spent fulfilling statutory and regulatory
19 requirements.

20 “(f) REPORT.—The Secretary shall include in the an-
21 nual report to Congress under section 426 of the Depart-
22 ment of Education Organization Act information related
23 to the effectiveness of waivers granted under subsection
24 (e)—



1 “(1) in reducing the paperwork burden on
2 teachers, administrators, and related services pro-
3 viders and non-instructional time spent by teachers
4 in complying with this part, including any specific
5 recommendations for broader implementation; and

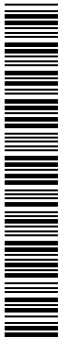
6 “(2) in enhancing longer-term educational plan-
7 ning, improving positive outcomes for children with
8 disabilities, promoting collaboration between IEP
9 Team members, and ensuring satisfaction of family
10 members, including any specific recommendations
11 for broader implementation.

12 “(g) MODEL FORMS.—Not later than the date on
13 which the Secretary publishes final regulations to imple-
14 ment this part (as amended by the Improving Education
15 Results for Children With Disabilities Act of 2003), the
16 Secretary shall publish and disseminate widely to States,
17 local educational agencies, and parent and community
18 training and information centers—

19 “(1) a model individualized education program
20 form;

21 “(2) a model form for the procedural safe-
22 guards notice described in section 615(d); and

23 “(3) a model form for the prior written notice
24 described in section 615(b)(3);



1 that would be consistent with the requirements of this part
2 and be deemed to be sufficient to meet such require-
3 ments.”.

4 **SEC. 208. PROGRAM INFORMATION.**

5 Section 618 of the Individuals with Disabilities Edu-
6 cation Act (20 U.S.C. 1418) is amended to read as follows:

7 **“SEC. 618. PROGRAM INFORMATION.**

8 “(a) IN GENERAL.—Each State that receives assist-
9 ance under this part, and the Secretary of the Interior,
10 shall provide data each year to the Secretary—

11 “(1)(A) on—

12 “(i) the number of children with disabil-
13 ities, by race, ethnicity, and disability category,
14 who are receiving a free appropriate public edu-
15 cation;

16 “(ii) the number of children with disabil-
17 ities, by race and ethnicity, who are receiving
18 early intervention services;

19 “(iii) the number of children with disabil-
20 ities, by race, ethnicity, and disability category,
21 who are participating in regular education;

22 “(iv) the number of children with disabil-
23 ities, by race, ethnicity, and disability category,
24 who are in separate classes, separate schools or



1 facilities, or public or private residential facili-
2 ties;

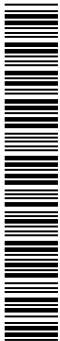
3 “(v) the number of children with disabil-
4 ities, by race, ethnicity, and disability category,
5 who, for each year of age from age 14 to 21,
6 stopped receiving special education and related
7 services because of program completion or other
8 reasons and the reasons why those children
9 stopped receiving special education and related
10 services;

11 “(vi) the number of children with disabil-
12 ities, by race and ethnicity, who, from birth
13 through age 2, stopped receiving early interven-
14 tion services because of program completion or
15 for other reasons;

16 “(vii)(I) the number of children with dis-
17 abilities, by race, ethnicity, and disability cat-
18 egory, who under subparagraph (A) or (B) of
19 section 615(j)(1), are removed to an interim al-
20 ternative educational setting;

21 “(II) the acts or items precipitating those
22 removals; and

23 “(III) the number of children with disabil-
24 ities, by race, ethnicity, and disability category,



1 who are subject to long-term suspensions or ex-
2 pulsions;

3 “(viii) the number of complaints resolved
4 through voluntary binding arbitration; and

5 “(ix) the number of mediations held and
6 the number of settlement agreements reached
7 through mediation;

8 “(B) on the number of infants and toddlers, by
9 race and ethnicity, who are at risk of having sub-
10 stantial developmental delays (as defined in section
11 632), and who are receiving early intervention serv-
12 ices under part C; and

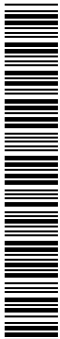
13 “(C) on the number of children served with
14 funds under section 613(f); and

15 “(2) on any other information that may be re-
16 quired by the Secretary.

17 “(b) SAMPLING.—The Secretary may permit States
18 and the Secretary of the Interior to obtain the data de-
19 scribed in subsection (a) through sampling.

20 “(c) DISPROPORTIONALITY.—

21 “(1) IN GENERAL.—Each State that receives
22 assistance under this part, and the Secretary of the
23 Interior, shall provide for the collection and exam-
24 ination of data to determine if significant



1 disproportionality based on race is occurring in the
2 State with respect to—

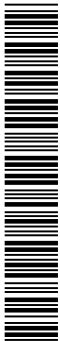
3 “(A) the identification of children as chil-
4 dren with disabilities, including the identifica-
5 tion of children as children with disabilities in
6 accordance with a particular impairment de-
7 scribed in section 602(3);

8 “(B) the placement in particular edu-
9 cational settings of such children; and

10 “(C) the incidence, duration, and type of
11 disciplinary actions, including suspensions and
12 expulsions.

13 “(2) REVIEW AND REVISION OF POLICIES,
14 PRACTICES, AND PROCEDURES.—In the case of a de-
15 termination of significant disproportionality with re-
16 spect to the identification of children as children
17 with disabilities, or the placement in particular edu-
18 cational settings of such children, in accordance with
19 paragraph (1), the State or the Secretary of the In-
20 terior, as the case may be—

21 “(A) shall provide for the review and, if
22 appropriate, revision of the policies, procedures,
23 and practices used in such identification or
24 placement to ensure that such policies, proce-



1 dures, and practices comply with the require-
2 ments of this Act; and

3 “(B) shall require any local educational
4 agency identified under paragraph (1) to re-
5 serve the maximum amount of funds under sec-
6 tion 613(f) to provide comprehensive coordi-
7 nated prereferral support services to serve chil-
8 dren in the local educational agency, particu-
9 larly children in those groups that were signifi-
10 cantly overidentified under paragraph (1).”.

11 **SEC. 209. PRESCHOOL GRANTS.**

12 Section 619 of the Individuals with Disabilities Edu-
13 cation Act (20 U.S.C. 1419) is amended to read as follows:

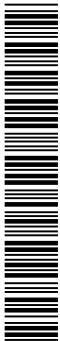
14 **“SEC. 619. PRESCHOOL GRANTS.**

15 “(a) IN GENERAL.—The Secretary shall provide
16 grants under this section to assist States to provide special
17 education and related services, in accordance with this
18 part—

19 (1) to children with disabilities aged 3 through
20 5, inclusive; and

21 “(2) at the State’s discretion, to 2-year-old chil-
22 dren with disabilities who will turn 3 during the
23 school year.

24 “(b) ELIGIBILITY.—A State shall be eligible for a
25 grant under this section if such State—



1 “(1) is eligible under section 612 to receive a
2 grant under this part; and

3 “(2) makes a free appropriate public education
4 available to all children with disabilities, aged 3
5 through 5, residing in the State.

6 “(c) ALLOCATIONS TO STATES.—

7 “(1) IN GENERAL.—The Secretary shall allo-
8 cate funds among the States in accordance with
9 paragraph (2) or (3), as appropriate.

10 “(2) INCREASE IN FUNDS.—If the amount
11 available for allocations to States under paragraph
12 (1) is equal to or greater than the amount allocated
13 to the States under this section for the preceding
14 fiscal year, those allocations shall be calculated as
15 follows:

16 “(A)(i) Except as provided in subpara-
17 graph (B), the Secretary shall—

18 “(I) allocate to each State the amount
19 it received for fiscal year 1997;

20 “(II) allocate 85 percent of any re-
21 maining funds to States on the basis of
22 their relative populations of children aged
23 3 through 5; and

24 “(III) allocate 15 percent of those re-
25 maining funds to States on the basis of



1 their relative populations of all children
2 aged 3 through 5 who are living in poverty.

3 “(ii) For the purpose of making grants
4 under this paragraph, the Secretary shall use
5 the most recent population data, including data
6 on children living in poverty, that are available
7 and satisfactory to the Secretary.

8 “(B) Notwithstanding subparagraph (A),
9 allocations under this paragraph shall be sub-
10 ject to the following:

11 “(i) No State’s allocation shall be less
12 than its allocation for the preceding fiscal
13 year.

14 “(ii) No State’s allocation shall be less
15 than the greatest of—

16 “(I) the sum of—

17 “(aa) the amount it received
18 for fiscal year 1997; and

19 “(bb) one third of one per-
20 cent of the amount by which the
21 amount appropriated under sub-
22 section (j) exceeds the amount
23 appropriated under this section
24 for fiscal year 1997;

25 “(II) the sum of—



1 “(aa) the amount it received
2 for the preceding fiscal year; and

3 “(bb) that amount multi-
4 plied by the percentage by which
5 the increase in the funds appro-
6 priated from the preceding fiscal
7 year exceeds 1.5 percent; or

8 “(III) the sum of—

9 “(aa) the amount it received
10 for the preceding fiscal year; and

11 “(bb) that amount multi-
12 plied by 90 percent of the per-
13 centage increase in the amount
14 appropriated from the preceding
15 fiscal year.

16 “(iii) Notwithstanding clause (ii), no
17 State’s allocation under this paragraph
18 shall exceed the sum of—

19 “(I) the amount it received for
20 the preceding fiscal year; and

21 “(II) that amount multiplied by
22 the sum of 1.5 percent and the per-
23 centage increase in the amount appro-
24 priated.



1 “(C) If the amount available for allocations
2 under this paragraph is insufficient to pay
3 those allocations in full, those allocations shall
4 be ratably reduced, subject to subparagraph
5 (B)(i).

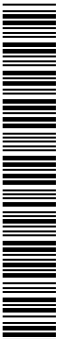
6 “(3) DECREASE IN FUNDS.—If the amount
7 available for allocations to States under paragraph
8 (1) is less than the amount allocated to the States
9 under this section for the preceding fiscal year, those
10 allocations shall be calculated as follows:

11 “(A) If the amount available for allocations
12 is greater than the amount allocated to the
13 States for fiscal year 1997, each State shall be
14 allocated the sum of—

15 “(i) the amount it received for fiscal
16 year 1997; and

17 “(ii) an amount that bears the same
18 relation to any remaining funds as the in-
19 crease the State received for the preceding
20 fiscal year over fiscal year 1997 bears to
21 the total of all such increases for all
22 States.

23 “(B) If the amount available for alloca-
24 tions is equal to or less than the amount allo-
25 cated to the States for fiscal year 1997, each



1 State shall be allocated the amount it received
2 for that year, ratably reduced, if necessary.

3 “(d) RESERVATION FOR STATE ACTIVITIES.—

4 “(1) IN GENERAL.—Each State may retain not
5 more than the amount described in paragraph (2)
6 for administration and other State-level activities in
7 accordance with subsections (e) and (f).

8 “(2) AMOUNT DESCRIBED.—For each fiscal
9 year, the Secretary shall determine and report to the
10 State educational agency an amount that is 25 per-
11 cent of the amount the State received under this sec-
12 tion for fiscal year 1997, cumulatively adjusted by
13 the Secretary for each succeeding fiscal year by the
14 lesser of—

15 “(A) the percentage increase, if any, from
16 the preceding fiscal year in the State’s alloca-
17 tion under this section; or

18 “(B) the percentage increase, if any, from
19 the preceding fiscal year in the Consumer Price
20 Index For All Urban Consumers published by
21 the Bureau of Labor Statistics of the Depart-
22 ment of Labor.

23 “(e) STATE ADMINISTRATION.—

24 “(1) IN GENERAL.—For the purpose of admin-
25 istering this section (including the coordination of



1 activities under this part with, and providing tech-
2 nical assistance to, other programs that provide
3 services to children with disabilities) a State may
4 use not more than 20 percent of the maximum
5 amount it may retain under subsection (d) for any
6 fiscal year.

7 “(2) ADMINISTRATION OF PART C.—Funds de-
8 scribed in paragraph (1) may also be used for the
9 administration of part C of this Act, if the State
10 educational agency is the lead agency for the State
11 under that part.

12 “(f) OTHER STATE-LEVEL ACTIVITIES.—Each State
13 shall use any funds it retains under subsection (d) and
14 does not use for administration under subsection (e)—

15 “(1) for support services (including establishing
16 and implementing the mediation and voluntary bind-
17 ing arbitration process required by section 615(e)),
18 which may benefit children with disabilities younger
19 than 3 or older than 5 as long as those services also
20 benefit children with disabilities aged 3 through 5;

21 “(2) for direct services for children eligible for
22 services under this section;

23 “(3) for activities at the State and local levels
24 to meet the performance goals established by the
25 State under section 612(a)(16) and to support im-



1 plementation of the State plan under subpart 1 of
2 part D if the State receives funds under that sub-
3 part; or

4 “(4) to supplement other funds used to develop
5 and implement a Statewide coordinated services sys-
6 tem designed to improve results for children and
7 families, including children with disabilities and their
8 families, but not to exceed one percent of the
9 amount received by the State under this section for
10 a fiscal year.

11 “(g) SUBGRANTS TO LOCAL EDUCATIONAL AGEN-
12 CIES.—

13 “(1) SUBGRANTS REQUIRED.—Each State that
14 receives a grant under this section for any fiscal
15 year shall distribute all of the grant funds that it
16 does not reserve under subsection (d) to local edu-
17 cational agencies in the State that have established
18 their eligibility under section 613, as follows:

19 “(A) BASE PAYMENTS.—The State shall
20 first award each agency described in paragraph
21 (1) the amount that agency would have received
22 under this section for fiscal year 1997 if the
23 State had distributed 75 percent of its grant for
24 that year under section 619(c)(3), as then in ef-
25 fect.



1 “(B) ALLOCATION OF REMAINING
2 FUNDS.—After making allocations under sub-
3 paragraph (A), the State shall—

4 “(i) allocate 85 percent of any re-
5 maining funds to those agencies on the
6 basis of the relative numbers of children
7 enrolled in public and private elementary
8 and secondary schools within the agency’s
9 jurisdiction; and

10 “(ii) allocate 15 percent of those re-
11 maining funds to those agencies in accord-
12 ance with their relative numbers of chil-
13 dren living in poverty, as determined by
14 the State educational agency.

15 “(2) REALLOCATION OF FUNDS.—If a State
16 educational agency determines that a local edu-
17 cational agency is adequately providing a free appro-
18 priate public education to all children with disabil-
19 ities aged 3 through 5 residing in the area served by
20 that agency with State and local funds, the State
21 educational agency may reallocate any portion of the
22 funds under this section that are not needed by that
23 local agency to provide a free appropriate public
24 education to other local educational agencies in the
25 State that are not adequately providing special edu-



1 cation and related services to all children with dis-
2 abilities aged 3 through 5 residing in the areas they
3 serve.

4 “(h) PART C INAPPLICABLE.—Part C of this Act
5 does not apply to any child with a disability receiving a
6 free appropriate public education, in accordance with this
7 part, with funds received under this section.

8 “(i) DEFINITION.—For the purpose of this section,
9 the term ‘State’ means each of the 50 States, the District
10 of Columbia, and the Commonwealth of Puerto Rico.

11 “(j) AUTHORIZATION OF APPROPRIATIONS.—For the
12 purpose of carrying out this section, there are authorized
13 to be appropriated to the Secretary \$500,000,000 for fis-
14 cal year 2004 and such sums as may be necessary for each
15 subsequent fiscal year.”.

16 **TITLE III—INFANTS AND**
17 **TODDLERS WITH DISABILITIES**

18 **SEC. 301. SECTIONS 631 THROUGH 638 OF THE INDIVIDUALS**
19 **WITH DISABILITIES EDUCATION ACT.**

20 Sections 631 through 638 of the Individuals with
21 Disabilities Education Act (20 U.S.C. 1431–1438) are
22 amended to read as follows:

23 **“SEC. 631. FINDINGS AND POLICY.**

24 “(a) FINDINGS.—The Congress finds that there is an
25 urgent and substantial need—



1 “(1) to enhance the development of infants and
2 toddlers with disabilities and to minimize their po-
3 tential for developmental delay;

4 “(2) to reduce the educational costs to our soci-
5 ety, including our Nation’s schools, by minimizing
6 the need for special education and related services
7 after infants and toddlers with disabilities reach
8 school age;

9 “(3) to minimize the likelihood of institutional-
10 ization of individuals with disabilities and maximize
11 the potential for their independently living in society;

12 “(4) to enhance the capacity of families to meet
13 the special needs of their infants and toddlers with
14 disabilities; and

15 “(5) to enhance the capacity of State and local
16 agencies and service providers to identify, evaluate,
17 and meet the needs of historically underrepresented
18 populations, particularly minority, low-income, inner-
19 city, and rural populations.

20 “(b) POLICY.—It is the policy of the United States
21 to provide financial assistance to States—

22 “(1) to develop and implement a statewide,
23 comprehensive, coordinated, multidisciplinary, inter-
24 agency system that provides early intervention serv-



1 ices for infants and toddlers with disabilities and
2 their families;

3 “(2) to facilitate the coordination of payment
4 for early intervention services from Federal, State,
5 local, and private sources (including public and pri-
6 vate insurance coverage);

7 “(3) to enhance their capacity to provide qual-
8 ity early intervention services and expand and im-
9 prove existing early intervention services being pro-
10 vided to infants and toddlers with disabilities and
11 their families; and

12 “(4) to encourage States to expand opportuni-
13 ties for children under 3 years of age who would be
14 at risk of having substantial developmental delay if
15 they did not receive early intervention services.

16 **“SEC. 632. DEFINITIONS.**

17 “As used in this part:

18 “(1) AT-RISK INFANT OR TODDLER.—The term
19 ‘at-risk infant or toddler’ means an individual under
20 3 years of age who would be at risk of experiencing
21 a substantial developmental delay if early interven-
22 tion services were not provided to the individual.

23 “(2) COUNCIL.—The term ‘council’ means a
24 State interagency coordinating council established
25 under section 641.



1 “(3) DEVELOPMENTAL DELAY.—The term ‘de-
2 velopmental delay’, when used with respect to an in-
3 dividual residing in a State, has the meaning given
4 such term by the State under section 635(a)(1).

5 “(4) EARLY INTERVENTION SERVICES.—The
6 term ‘early intervention services’ means develop-
7 mental services that—

8 “(A) are provided under public supervision;

9 “(B) are provided at no cost except where
10 Federal or State law provides for a system of
11 payments by families, including a schedule of
12 sliding fees;

13 “(C) are designed to address family-identi-
14 fied priorities and concerns that are determined
15 by individualized family service plan team to re-
16 late to enhancing the child’s development in any
17 one or more of the following areas—

18 “(i) physical development;

19 “(ii) cognitive development;

20 “(iii) communication development;

21 “(iv) social or emotional development;

22 or

23 “(v) adaptive development;



1 “(D) meet the standards of the State in
2 which they are provided, including the require-
3 ments of this part;

4 “(E) include—

5 “(i) family training, family therapy,
6 counseling, and home visits;

7 “(ii) special instruction;

8 “(iii) speech-language pathology and
9 audiology services;

10 “(iv) occupational therapy;

11 “(v) physical therapy;

12 “(vi) psychological services;

13 “(vii) service coordination services;

14 “(viii) medical services only for diag-
15 nostic or evaluation purposes;

16 “(ix) early identification, screening,
17 and assessment services;

18 “(x) health services necessary to en-
19 able the infant or toddler to benefit from
20 the other early intervention services;

21 “(xi) social work services;

22 “(xii) vision services;

23 “(xiii) assistive technology devices and
24 assistive technology services; and



1 “(xiv) transportation and related costs
2 that are necessary to enable an infant or
3 toddler and the infant’s or toddler’s family
4 to receive another service described in this
5 paragraph;

6 “(F) are provided by qualified personnel,
7 including—

8 “(i) special educators;

9 “(ii) speech-language pathologists and
10 audiologists;

11 “(iii) occupational therapists;

12 “(iv) physical therapists;

13 “(v) psychologists;

14 “(vi) social workers;

15 “(vii) nurses;

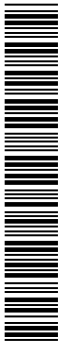
16 “(viii) registered dietitians;

17 “(ix) family therapists;

18 “(x) orientation and mobility special-
19 ists; and

20 “(xi) pediatricians and other physi-
21 cians;

22 “(G) to the maximum extent appropriate,
23 are provided in natural environments, including
24 the home, and community settings in which
25 children without disabilities participate; and



1 “(H) are provided in conformity with an
2 individualized family service plan adopted in ac-
3 cordance with section 636.

4 “(5) INFANT OR TODDLER WITH A DIS-
5 ABILITY.—The term ‘infant or toddler with a dis-
6 ability’—

7 “(A) means an individual under 3 years of
8 age who needs early intervention services be-
9 cause the individual—

10 “(i) is experiencing developmental
11 delays, as measured by appropriate diag-
12 nostic instruments and procedures in one
13 or more of the areas of cognitive develop-
14 ment, physical development, communica-
15 tion development, social or emotional devel-
16 opment, and adaptive development; or

17 “(ii) has a diagnosed physical or men-
18 tal condition which has a high probability
19 of resulting in developmental delay;

20 “(B) may also include, at a State’s discre-
21 tion, at-risk infants and toddlers; and

22 “(C) may also include, at a State’s discre-
23 tion, a child aged 3 through 5, who previously
24 received services under this part and who is eli-
25 gible for services under section 619, if—



1 “(i) services provided to this age
2 group under this part include an edu-
3 cational component that promotes school
4 readiness and incorporates scientifically
5 based pre-literacy, language, and numeracy
6 skills; and

7 “(ii) parents are provided a written
8 notification of their rights and responsibil-
9 ities in determining whether their child will
10 continue to receive services under this part
11 or participate in preschool programs as-
12 sisted under section 619.

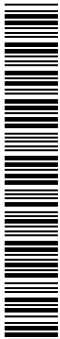
13 **“SEC. 633. GENERAL AUTHORITY.**

14 “The Secretary shall, in accordance with this part,
15 make grants to States (from their allotments under sec-
16 tion 643) to assist each State to maintain and implement
17 a statewide, comprehensive, coordinated, multidisciplinary,
18 interagency system to provide early intervention services
19 for infants and toddlers with disabilities and their families.

20 **“SEC. 634. ELIGIBILITY.**

21 “In order to be eligible for a grant under section 633,
22 a State shall provide assurances to the Secretary that the
23 State—

24 “(1) has adopted a policy that appropriate early
25 intervention services are available to all infants and



1 toddlers with disabilities in the State and their fami-
2 lies, including Indian infants and toddlers with dis-
3 abilities and their families residing on a reservation
4 geographically located in the State; and

5 “(2) has in effect a statewide system that meets
6 the requirements of section 635.

7 **“SEC. 635. REQUIREMENTS FOR STATEWIDE SYSTEM.**

8 “(a) IN GENERAL.—A statewide system described in
9 section 633 shall include, at a minimum, the following
10 components:

11 “(1) A definition of the term ‘developmental
12 delay’ that will be used by the State in carrying out
13 programs under this part.

14 “(2) A State policy that is in effect and that
15 ensures that appropriate early intervention services
16 based on scientifically based research are available to
17 all infants and toddlers with disabilities and their
18 families, including Indian infants and toddlers and
19 their families residing on a reservation geographi-
20 cally located in the State.

21 “(3) A timely, comprehensive, multidisciplinary
22 evaluation of the functioning of each infant or tod-
23 dler with a disability in the State, and a family-di-
24 rected identification of the needs of each family of



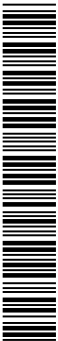
1 such an infant or toddler, to appropriately assist in
2 the development of the infant or toddler.

3 “(4) For each infant or toddler with a disability
4 in the State, an individualized family service plan in
5 accordance with section 636, including service co-
6 ordination services in accordance with such service
7 plan.

8 “(5) A comprehensive child find system, con-
9 sistent with part B, including a system for making
10 referrals to service providers that includes timelines
11 and provides for participation by primary referral
12 sources.

13 “(6) A public awareness program focusing on
14 early identification of infants and toddlers with dis-
15 abilities, including the preparation and dissemination
16 by the lead agency designated or established under
17 paragraph (10) to all primary referral sources, espe-
18 cially hospitals and physicians, of information for
19 parents on the availability of early intervention serv-
20 ices, and procedures for determining the extent to
21 which such sources disseminate such information to
22 parents of infants and toddlers.

23 “(7) A central directory that includes informa-
24 tion on early intervention services, resources, and ex-



1 perts available in the State and research and dem-
2 onstration projects being conducted in the State.

3 “(8) A comprehensive system of personnel de-
4 velopment, including the training of paraprofes-
5 sionals and the training of primary referral sources
6 respecting the basic components of early intervention
7 services available in the State that—

8 “(A) shall include—

9 “(i) implementing innovative strate-
10 gies and activities for the recruitment and
11 retention of early education service pro-
12 viders;

13 “(ii) promoting the preparation of
14 early intervention providers who are fully
15 and appropriately qualified to provide early
16 intervention services under this part; and

17 “(iii) training personnel to coordinate
18 transition services for infants and toddlers
19 served under this part from a program
20 providing early intervention services under
21 this part and under part B (other than
22 section 619), to a preschool program re-
23 ceiving funds under section 619, or an-
24 other appropriate program; and

25 “(B) may include—



1 “(i) training personnel to work in
2 rural and inner-city areas; and

3 “(ii) training personnel in the emo-
4 tional and social development of young
5 children.

6 “(9) Subject to subsection (b), policies and pro-
7 cedures relating to the establishment and mainte-
8 nance of standards to ensure that personnel nec-
9 essary to carry out this part are appropriately and
10 adequately prepared and trained, including the es-
11 tablishment and maintenance of standards that are
12 consistent with any State-approved or recognized
13 certification, licensing, registration, or other com-
14 parable requirements that apply to the area in which
15 such personnel are providing early intervention serv-
16 ices.

17 “(10) A single line of responsibility in a lead
18 agency designated or established by the Governor for
19 carrying out—

20 “(A) the general administration and super-
21 vision of programs and activities receiving as-
22 sistance under section 633, and the monitoring
23 of programs and activities used by the State to
24 carry out this part, whether or not such pro-
25 grams or activities are receiving assistance



1 made available under section 633, to ensure
2 that the State complies with this part;

3 “(B) the identification and coordination of
4 all available resources within the State from
5 Federal, State, local, and private sources;

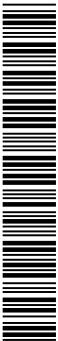
6 “(C) the assignment of financial responsi-
7 bility in accordance with section 637(a)(2) to
8 the appropriate agencies;

9 “(D) the development of procedures to en-
10 sure that services are provided to infants and
11 toddlers with disabilities and their families
12 under this part in a timely manner pending the
13 resolution of any disputes among public agen-
14 cies or service providers;

15 “(E) the resolution of intra- and inter-
16 agency disputes; and

17 “(F) the entry into formal interagency
18 agreements that define the financial responsi-
19 bility of each agency for paying for early inter-
20 vention services (consistent with State law) and
21 procedures for resolving disputes and that in-
22 clude all additional components necessary to en-
23 sure meaningful cooperation and coordination.

24 “(11) A policy pertaining to the contracting or
25 making of other arrangements with service providers



1 to provide early intervention services in the State,
2 consistent with the provisions of this part, including
3 the contents of the application used and the condi-
4 tions of the contract or other arrangements.

5 “(12) A procedure for securing timely reim-
6 bursements of funds used under this part in accord-
7 ance with section 640(a).

8 “(13) Procedural safeguards with respect to
9 programs under this part, as required by section
10 639.

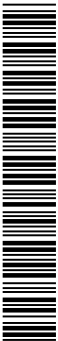
11 “(14) A system for compiling data requested by
12 the Secretary under section 618 that relates to this
13 part.

14 “(15) A State interagency coordinating council
15 that meets the requirements of section 641.

16 “(16) Policies and procedures to ensure that,
17 consistent with section 636(d)(5)—

18 “(A) to the maximum extent appropriate,
19 early intervention services are provided in nat-
20 ural environments; and

21 “(B) the provision of early intervention
22 services for any infant or toddler occurs in a
23 setting other than a natural environment only
24 when early intervention cannot be achieved sat-



1 isfactorily for the infant or toddler in a natural
2 environment.

3 “(b) POLICY.—In implementing subsection (a)(9), a
4 State may adopt a policy that includes making ongoing
5 good-faith efforts to recruit and hire appropriately and
6 adequately trained personnel to provide early intervention
7 services to infants and toddlers with disabilities, including,
8 in a geographic area of the State where there is a shortage
9 of such personnel, the most qualified individuals available
10 who are making satisfactory progress toward completing
11 applicable course work necessary to meet the standards
12 described in subsection (a)(9), consistent with State law
13 within 3 years.

14 “(c) TREATMENT OF CHILDREN AGED 3 THROUGH
15 5.—

16 “(1) IN GENERAL.—If a State includes children
17 described in section 632(5)(C) in the system de-
18 scribed in section 633, the State shall be considered
19 to have fulfilled any obligation under part B with re-
20 spect to the provision of a free appropriate public
21 education to those children during the period in
22 which they are receiving services under this part.

23 “(2) CONSTRUCTION.—Nothing in paragraph
24 (1) shall be construed to alter or diminish the rights



1 and protections afforded under this part to children
2 described in such paragraph.

3 **“SEC. 636. INDIVIDUALIZED FAMILY SERVICE PLAN.**

4 “(a) ASSESSMENT AND PROGRAM DEVELOPMENT.—

5 A statewide system described in section 633 shall provide,
6 at a minimum, for each infant or toddler with a disability,
7 and the infant’s or toddler’s family, to receive—

8 “(1) a multidisciplinary assessment of the
9 unique strengths and needs of the infant or toddler
10 and the identification of services appropriate to meet
11 such needs;

12 “(2) a family-directed assessment of the re-
13 sources, priorities, and concerns of the family and
14 the identification of the supports and services nec-
15 essary to enhance the family’s capacity to meet the
16 developmental needs of the infant or toddler; and

17 “(3) a written individualized family service plan
18 developed by a multidisciplinary team, including the
19 parents, as required by subsection (e), including a
20 description of the appropriate transition services for
21 the child’s entrance in school.

22 “(b) PERIODIC REVIEW.—The individualized family
23 service plan shall be evaluated once a year and the family
24 shall be provided a review of the plan at 6-month intervals



1 (or more often where appropriate based on infant or tod-
2 dler and family needs).

3 “(c) PROMPTNESS AFTER ASSESSMENT.—The indi-
4 vidualized family service plan shall be developed within a
5 reasonable time after the assessment required by sub-
6 section (a)(1) is completed. With the parents’ consent,
7 early intervention services may commence prior to the
8 completion of the assessment.

9 “(d) CONTENT OF PLAN.—The individualized family
10 service plan shall be in writing and contain—

11 “(1) a statement of the infant’s or toddler’s
12 present levels of physical development, cognitive de-
13 velopment, communication development, social or
14 emotional development, and adaptive development,
15 based on objective criteria;

16 “(2) a statement of the family’s resources, pri-
17 orities, and concerns relating to enhancing the devel-
18 opment of the family’s infant or toddler with a dis-
19 ability;

20 “(3) a statement of the major goals expected to
21 be achieved for the infant or toddler and the family,
22 including pre-literacy and language skills, as devel-
23 opmentally appropriate for the child, and the cri-
24 teria, procedures, and timelines used to determine
25 the degree to which progress toward achieving the



1 goals is being made and whether modifications or re-
2 visions of the goals or services are necessary;

3 “(4) a statement of specific early intervention
4 services based on peer-reviewed research necessary
5 to meet the unique needs of the infant or toddler
6 and the family, including the frequency, intensity,
7 and method of delivering services;

8 “(5) a statement of the natural environments in
9 which early intervention services will appropriately
10 be provided, including a justification of the extent,
11 if any, to which the services will not be provided in
12 a natural environment;

13 “(6) the projected dates for initiation of serv-
14 ices and the anticipated length, duration, and fre-
15 quency of the services;

16 “(7) the identification of the service coordinator
17 from the profession most immediately relevant to the
18 infant’s or toddler’s or family’s needs (or who is oth-
19 erwise qualified to carry out all applicable respon-
20 sibilities under this part) who will be responsible for
21 the implementation of the plan and coordination
22 with other agencies and persons, including transition
23 services; and



1 “(8) the steps to be taken to support the transi-
2 tion of the toddler with a disability to preschool or
3 other appropriate services.

4 “(e) PARENTAL CONSENT.—The contents of the indi-
5 vidualized family service plan shall be fully explained to
6 the parents and informed written consent from the par-
7 ents shall be obtained prior to the provision of early inter-
8 vention services described in such plan. If the parents do
9 not provide consent with respect to a particular early
10 intervention service, then only the early intervention serv-
11 ices to which consent is obtained shall be provided.

12 **“SEC. 637. STATE APPLICATION AND ASSURANCES.**

13 “(a) APPLICATION.—A State desiring to receive a
14 grant under section 633 shall submit an application to the
15 Secretary at such time and in such manner as the Sec-
16 retary may reasonably require. The application shall
17 contain—

18 “(1) a designation of the lead agency in the
19 State that will be responsible for the administration
20 of funds provided under section 633;

21 “(2) a designation of an individual or entity re-
22 sponsible for assigning financial responsibility
23 among appropriate agencies;

24 “(3) information demonstrating eligibility of the
25 State under section 634, including a description of



1 services to be provided to infants and toddlers with
2 disabilities and their families through the system;

3 “(4) if the State provides services to at-risk in-
4 fants and toddlers through the State-wide system, a
5 description of such services;

6 “(5) a description of the State policies and pro-
7 cedures requiring the referral of a child under the
8 age 3 who is involved in a substantiated case of child
9 abuse or neglect for an evaluation consistent with
10 section 635(a)(5).

11 “(6) a description of the uses for which funds
12 will be expended in accordance with this part;

13 “(7) a description of the procedure used to en-
14 sure that resources are made available under this
15 part for all geographic areas within the State;

16 “(8) a description of State policies and proce-
17 dures that ensure that, prior to the adoption by the
18 State of any other policy or procedure necessary to
19 meet the requirements of this part, there are public
20 hearings, adequate notice of the hearings, and an
21 opportunity for comment available to the general
22 public, including individuals with disabilities and
23 parents of infants and toddlers with disabilities;

24 “(9) a description of the policies and procedures
25 to be used—



1 “(A) to ensure a smooth transition for tod-
2 dlers receiving early intervention services under
3 this part to preschool or other appropriate serv-
4 ices, including a description of how—

5 “(i) the families of such toddlers will
6 be included in the transition plans required
7 by subparagraph (C); and

8 “(ii) the lead agency designated or es-
9 tablished under section 635(a)(10) will—

10 “(I) notify the local educational
11 agency for the area in which such a
12 child resides that the child will shortly
13 reach the age of eligibility for pre-
14 school services under part B, as deter-
15 mined in accordance with State law;

16 “(II) in the case of a child who
17 may be eligible for such preschool
18 services, with the approval of the fam-
19 ily of the child, convene a conference
20 among the lead agency, the family,
21 and the local educational agency at
22 least 90 days (and at the discretion of
23 all such parties, up to 6 months) be-
24 fore the child is eligible for the pre-
25 school services, to discuss any such



1 services that the child may receive;
2 and

3 “(III) in the case of a child who
4 may not be eligible for such preschool
5 services, with the approval of the fam-
6 ily, make reasonable efforts to con-
7 vene a conference among the lead
8 agency, the family, and providers of
9 other appropriate services for children
10 who are not eligible for preschool serv-
11 ices under part B, to discuss the ap-
12 propriate services that the child may
13 receive;

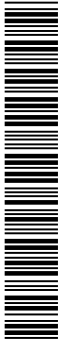
14 “(B) to review the child’s program options
15 for the period from the child’s third birthday
16 through the remainder of the school year; and

17 “(C) to establish a transition plan; and

18 “(10) such other information and assurances as
19 the Secretary may reasonably require.

20 “(b) ASSURANCES.—The application described in
21 subsection (a)—

22 “(1) shall provide satisfactory assurance that
23 Federal funds made available under section 643 to
24 the State will be expended in accordance with this
25 part;



1 “(2) shall contain an assurance that the State
2 will comply with the requirements of section 640;

3 “(3) shall provide satisfactory assurance that
4 the control of funds provided under section 643, and
5 title to property derived from those funds, will be in
6 a public agency for the uses and purposes provided
7 in this part and that a public agency will administer
8 such funds and property;

9 “(4) shall provide for—

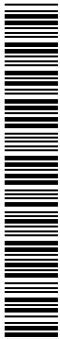
10 “(A) making such reports in such form
11 and containing such information as the Sec-
12 retary may require to carry out the Secretary’s
13 functions under this part; and

14 “(B) keeping such records and affording
15 such access to them as the Secretary may find
16 necessary to ensure the correctness and ver-
17 ification of those reports and proper disburse-
18 ment of Federal funds under this part;

19 “(5) provide satisfactory assurance that Federal
20 funds made available under section 643 to the
21 State—

22 “(A) will not be commingled with State
23 funds; and

24 “(B) will be used so as to supplement the
25 level of State and local funds expended for in-



1 fants and toddlers with disabilities and their
2 families and in no case to supplant those State
3 and local funds;

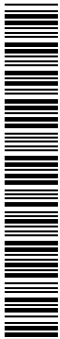
4 “(6) shall provide satisfactory assurance that
5 such fiscal control and fund accounting procedures
6 will be adopted as may be necessary to ensure prop-
7 er disbursement of, and accounting for, Federal
8 funds paid under section 643 to the State;

9 “(7) shall provide satisfactory assurance that
10 policies and procedures have been adopted to ensure
11 meaningful involvement of underserved groups, in-
12 cluding minority, low-income, and rural families, in
13 the planning and implementation of all the require-
14 ments of this part; and

15 “(8) shall contain such other information and
16 assurances as the Secretary may reasonably require
17 by regulation.

18 “(c) STANDARD FOR DISAPPROVAL OF APPLICA-
19 TION.—The Secretary may not disapprove such an appli-
20 cation unless the Secretary determines, after notice and
21 opportunity for a hearing, that the application fails to
22 comply with the requirements of this section.

23 “(d) SUBSEQUENT STATE APPLICATION.—If a State
24 has on file with the Secretary a policy, procedure, or as-
25 surance that demonstrates that the State meets a require-



1 ment of this section, including any policy or procedure
2 filed under this part (as in effect before the date of the
3 enactment of the Improving Education Results for Chil-
4 dren With Disabilities Act of 2003), the Secretary shall
5 consider the State to have met the requirement for pur-
6 poses of receiving a grant under this part.

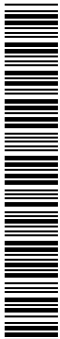
7 “(e) MODIFICATION OF APPLICATION.—An applica-
8 tion submitted by a State in accordance with this section
9 shall remain in effect until the State submits to the Sec-
10 retary such modifications as the State determines nec-
11 essary. This section shall apply to a modification of an
12 application to the same extent and in the same manner
13 as this section applies to the original application.

14 “(f) MODIFICATIONS REQUIRED BY THE SEC-
15 RETARY.—The Secretary may require a State to modify
16 its application under this section, but only to the extent
17 necessary to ensure the State’s compliance with this part,
18 if—

19 “(1) an amendment is made to this Act, or a
20 Federal regulation issued under this Act;

21 “(2) a new interpretation of this Act is made by
22 a Federal court or the State’s highest court; or

23 “(3) an official finding of noncompliance with
24 Federal law or regulations is made with respect to
25 the State.



1 **“SEC. 638. USES OF FUNDS.**

2 “In addition to using funds provided under section
3 633 to maintain and implement the statewide system re-
4 quired by such section, a State may use such funds—

5 “(1) for direct early intervention services for in-
6 fants and toddlers with disabilities, and their fami-
7 lies, under this part that are not otherwise funded
8 through other public or private sources;

9 “(2) to expand and improve on services for in-
10 fants and toddlers and their families under this part
11 that are otherwise available;

12 “(3) to provide a free appropriate public edu-
13 cation, in accordance with part B, to children with
14 disabilities from their third birthday to the begin-
15 ning of the following school year; and

16 “(4) in any State that does not provide services
17 for at-risk infants and toddlers under section
18 637(a)(4), to strengthen the statewide system by ini-
19 tiating, expanding, or improving collaborative efforts
20 related to at-risk infants and toddlers, including es-
21 tablishing linkages with appropriate public or private
22 community-based organizations, services, and per-
23 sonnel for the purposes of—

24 “(A) identifying and evaluating at-risk in-
25 fants and toddlers;



1 “(B) making referrals of the infants and
2 toddlers identified and evaluated under sub-
3 paragraph (A); and

4 “(C) conducting periodic follow-up on each
5 such referral to determine if the status of the
6 infant or toddler involved has changed with re-
7 spect to the eligibility of the infant or toddler
8 for services under this part.”.

9 **SEC. 302. SECTIONS 641 THROUGH 645 OF THE INDIVIDUALS**
10 **WITH DISABILITIES EDUCATION ACT.**

11 Sections 641 through 645 of the Individuals with
12 Disabilities Education Act (20 U.S.C. 1441–1445) are
13 amended to read as follows:

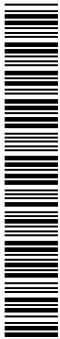
14 **“SEC. 641. STATE INTERAGENCY COORDINATING COUNCIL.**

15 “(a) ESTABLISHMENT.—

16 “(1) IN GENERAL.—A State that desires to re-
17 ceive financial assistance under this part shall estab-
18 lish a State interagency coordinating council.

19 “(2) APPOINTMENT.—The council shall be ap-
20 pointed by the Governor. In making appointments to
21 the council, the Governor shall ensure that the mem-
22 bership of the council reasonably represents the pop-
23 ulation of the State.

24 “(3) CHAIRPERSON.—The Governor shall des-
25 ignate a member of the council to serve as the chair-



1 person of the council, or shall require the council to
2 so designate such a member. Any member of the
3 council who is a representative of the lead agency
4 designated under section 635(a)(10) may not serve
5 as the chairperson of the council.

6 “(b) COMPOSITION.—

7 “(1) IN GENERAL.—The council shall be com-
8 posed as follows:

9 “(A) PARENTS.—At least 20 percent of
10 the members shall be parents of infants or tod-
11 dlers with disabilities or children with disabil-
12 ities aged 12 or younger, with knowledge of, or
13 experience with, programs for infants and tod-
14 dlers with disabilities. At least one such mem-
15 ber shall be a parent of an infant or toddler
16 with a disability or a child with a disability
17 aged 6 or younger.

18 “(B) SERVICE PROVIDERS.—At least 20
19 percent of the members shall be public or pri-
20 vate providers of early intervention services.

21 “(C) STATE LEGISLATURE.—At least one
22 member shall be from the State legislature.

23 “(D) PERSONNEL PREPARATION.—At least
24 one member shall be involved in personnel prep-
25 aration.



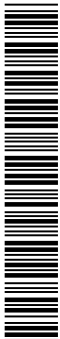
1 “(E) AGENCY FOR EARLY INTERVENTION
2 SERVICES.—At least one member shall be from
3 each of the State agencies involved in the provi-
4 sion of, or payment for, early intervention serv-
5 ices to infants and toddlers with disabilities and
6 their families and shall have sufficient authority
7 to engage in policy planning and implementa-
8 tion on behalf of such agencies.

9 “(F) AGENCY FOR PRESCHOOL SERV-
10 ICES.—At least one member shall be from the
11 State educational agency responsible for pre-
12 school services to children with disabilities and
13 shall have sufficient authority to engage in pol-
14 icy planning and implementation on behalf of
15 such agency.

16 “(G) AGENCY FOR HEALTH INSURANCE.—
17 At least one member shall be from the agency
18 responsible for the State governance of health
19 insurance.

20 “(H) HEAD START AGENCY.—At least one
21 representative from a Head Start agency or
22 program in the State.

23 “(I) CHILD CARE AGENCY.—At least one
24 representative from a State agency responsible
25 for child care.



1 “(J) MENTAL HEALTH AGENCY.—At least
2 one representative from the State agency re-
3 sponsible for children’s mental health.

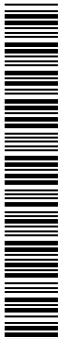
4 “(K) CHILD WELFARE AGENCY.—At least
5 one representative from the State agency re-
6 sponsible for child protective services.

7 “(L) OFFICE OF THE COORDINATOR FOR
8 THE EDUCATION OF HOMELESS CHILDREN AND
9 YOUTH.—At least one representative designated
10 by the Office of the Coordinator.

11 “(2) OTHER MEMBERS.—The council may in-
12 clude other members selected by the Governor, in-
13 cluding a representative from the Bureau of Indian
14 Affairs, or where there is no BIA-operated or BIA-
15 funded school, from the Indian Health Service or the
16 tribe or tribal council.

17 “(c) MEETINGS.—The council shall meet at least
18 quarterly and in such places as it deems necessary. The
19 meetings shall be publicly announced, and, to the extent
20 appropriate, open and accessible to the general public.

21 “(d) MANAGEMENT AUTHORITY.—Subject to the ap-
22 proval of the Governor, the council may prepare and ap-
23 prove a budget using funds under this part to conduct
24 hearings and forums, to reimburse members of the council
25 for reasonable and necessary expenses for attending coun-



1 cil meetings and performing council duties (including child
2 care for parent representatives), to pay compensation to
3 a member of the council if the member is not employed
4 or must forfeit wages from other employment when per-
5 forming official council business, to hire staff, and to ob-
6 tain the services of such professional, technical, and cler-
7 ical personnel as may be necessary to carry out its func-
8 tions under this part.

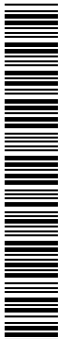
9 “(e) FUNCTIONS OF COUNCIL.—

10 “(1) DUTIES.—The council shall—

11 “(A) advise and assist the lead agency des-
12 igned or established under section 635(a)(10)
13 in the performance of the responsibilities set
14 forth in such section, particularly the identifica-
15 tion of the sources of fiscal and other support
16 for services for early intervention programs, as-
17 signment of financial responsibility to the ap-
18 propriate agency, and the promotion of the
19 interagency agreements;

20 “(B) advise and assist the lead agency in
21 the preparation of applications and amend-
22 ments thereto;

23 “(C) advise and assist the State edu-
24 cational agency regarding the transition of tod-



1 dlers with disabilities to preschool and other ap-
2 propriate services; and

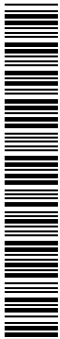
3 “(D) prepare and submit an annual report
4 to the Governor and to the Secretary on the
5 status of early intervention programs for in-
6 fants and toddlers with disabilities and their
7 families operated within the State.

8 “(2) AUTHORIZED ACTIVITY.—The council may
9 advise and assist the lead agency and the State edu-
10 cational agency regarding the provision of appro-
11 priate services for children from birth through age
12 5. The council may advise appropriate agencies in
13 the State with respect to the integration of services
14 for infants and toddlers with disabilities and at-risk
15 infants and toddlers and their families, regardless of
16 whether at-risk infants and toddlers are eligible for
17 early intervention services in the State.

18 “(f) CONFLICT OF INTEREST.—No member of the
19 council shall cast a vote on any matter that would provide
20 direct financial benefit to that member or otherwise give
21 the appearance of a conflict of interest under State law.

22 **“SEC. 642. FEDERAL ADMINISTRATION.**

23 “Sections 616, 617, and 618 shall, to the extent not
24 inconsistent with this part, apply to the program author-
25 ized by this part, except that—



1 “(1) any reference in such sections to a State
2 educational agency shall be considered to be a ref-
3 erence to a State’s lead agency established or des-
4 ignated under section 635(a)(10);

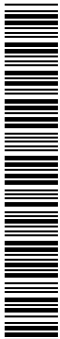
5 “(2) any reference in such sections to a local
6 educational agency, educational service agency, or a
7 State agency shall be considered to be a reference to
8 an early intervention service provider under this
9 part; and

10 “(3) any reference to the education of children
11 with disabilities or the education of all children with
12 disabilities shall be considered to be a reference to
13 the provision of appropriate early intervention serv-
14 ices to infants and toddlers with disabilities.

15 **“SEC. 643. ALLOCATION OF FUNDS.**

16 “(a) RESERVATION OF FUNDS FOR OUTLYING
17 AREAS.—

18 “(1) IN GENERAL.—From the sums appro-
19 priated to carry out this part for any fiscal year, the
20 Secretary may reserve up to one percent for pay-
21 ments to Guam, American Samoa, the Virgin Is-
22 lands, and the Commonwealth of the Northern Mar-
23 iana Islands in accordance with their respective
24 needs.



1 “(2) CONSOLIDATION OF FUNDS.—The provi-
2 sions of Public Law 95–134, permitting the consoli-
3 dation of grants to the outlying areas, shall not
4 apply to funds those areas receive under this part.

5 “(b) PAYMENTS TO INDIANS.—

6 “(1) IN GENERAL.—The Secretary shall, sub-
7 ject to this subsection, make payments to the Sec-
8 retary of the Interior to be distributed to tribes,
9 tribal organizations (as defined under section 4 of
10 the Indian Self-Determination and Education Assist-
11 ance Act), or consortia of the above entities for the
12 coordination of assistance in the provision of early
13 intervention services by the States to infants and
14 toddlers with disabilities and their families on res-
15 ervations served by elementary and secondary
16 schools for Indian children operated or funded by
17 the Department of the Interior. The amount of such
18 payment for any fiscal year shall be 1.25 percent of
19 the aggregate of the amount available to all States
20 under this part for such fiscal year.

21 “(2) ALLOCATION.—For each fiscal year, the
22 Secretary of the Interior shall distribute the entire
23 payment received under paragraph (1) by providing
24 to each tribe, tribal organization, or consortium an
25 amount based on the number of infants and toddlers



1 residing on the reservation, as determined annually,
2 divided by the total number of such children served
3 by all tribes, tribal organizations, or consortia.

4 “(3) INFORMATION.—To receive a payment
5 under this subsection, the tribe, tribal organization,
6 or consortium shall submit such information to the
7 Secretary of the Interior as is needed to determine
8 the amounts to be distributed under paragraph (2).

9 “(4) USE OF FUNDS.—The funds received by a
10 tribe, tribal organization, or consortium shall be
11 used to assist States in child find, screening, and
12 other procedures for the early identification of In-
13 dian children under 3 years of age and for parent
14 training. Such funds may also be used to provide
15 early intervention services in accordance with this
16 part. Such activities may be carried out directly or
17 through contracts or cooperative agreements with
18 the BIA, local educational agencies, and other public
19 or private nonprofit organizations. The tribe, tribal
20 organization, or consortium is encouraged to involve
21 Indian parents in the development and implementa-
22 tion of these activities. The above entities shall, as
23 appropriate, make referrals to local, State, or Fed-
24 eral entities for the provision of services or further
25 diagnosis.

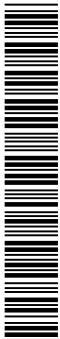


1 “(5) REPORTS.—To be eligible to receive a
2 grant under paragraph (2), a tribe, tribal organiza-
3 tion, or consortium shall make an annual report to
4 the Secretary of the Interior of activities undertaken
5 under this subsection, including the number of con-
6 tracts and cooperative agreements entered into, the
7 number of children contacted and receiving services
8 for each year, and the estimated number of children
9 needing services during the year following the year
10 in which the report is made. The Secretary of the
11 Interior shall include a summary of this information
12 on an annual basis to the Secretary of Education
13 along with such other information as required under
14 section 611(i)(3)(E). The Secretary of Education
15 may require any additional information from the
16 Secretary of the Interior.

17 “(6) PROHIBITED USES OF FUNDS.—None of
18 the funds under this subsection may be used by the
19 Secretary of the Interior for administrative pur-
20 poses, including child count, and the provision of
21 technical assistance.

22 “(c) STATE ALLOTMENTS.—

23 “(1) IN GENERAL.—Except as provided in para-
24 graphs (2) and (3) from the funds remaining for
25 each fiscal year after the reservation and payments



1 under subsections (a) and (b), the Secretary shall
2 first allot to each State an amount that bears the
3 same ratio to the amount of such remainder as the
4 number of infants and toddlers in the State bears to
5 the number of infants and toddlers in all States.

6 “(2) MINIMUM ALLOTMENTS.—Except as pro-
7 vided in paragraph (3) no State shall receive an
8 amount under this section for any fiscal year that is
9 less than the greater of—

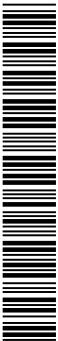
10 “(A) one-half of one percent of the remain-
11 ing amount described in paragraph (1); or

12 “(B) \$500,000.

13 “(3) RATABLE REDUCTION.—

14 “(A) IN GENERAL.—If the sums made
15 available under this part for any fiscal year are
16 insufficient to pay the full amounts that all
17 States are eligible to receive under this sub-
18 section for such year, the Secretary shall rat-
19 ably reduce the allotments to such States for
20 such year.

21 “(B) ADDITIONAL FUNDS.—If additional
22 funds become available for making payments
23 under this subsection for a fiscal year, allot-
24 ments that were reduced under subparagraph



1 (A) shall be increased on the same basis they
2 were reduced.

3 “(4) DEFINITIONS.—For the purpose of this
4 subsection—

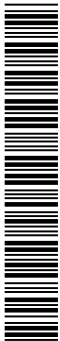
5 “(A) the terms ‘infants’ and ‘toddlers’
6 mean children under 3 years of age; and

7 “(B) the term ‘State’ means each of the 50
8 States, the District of Columbia, and the Com-
9 monwealth of Puerto Rico.

10 “(d) REALLOTMENT OF FUNDS.—If a State elects
11 not to receive its allotment under subsection (c), the Sec-
12 retary shall realLOT, among the remaining States, amounts
13 from such State in accordance with such subsection.

14 **“SEC. 644. AUTHORIZATION OF APPROPRIATIONS.**

15 “For the purpose of carrying out this part, there are
16 authorized to be appropriated \$447,000,000 for fiscal year
17 2004 and such sums as may be necessary for each of the
18 fiscal years 2005 through 2009.”.



1 **TITLE IV—NATIONAL ACTIVITIES**
2 **TO IMPROVE EDUCATION OF**
3 **CHILDREN WITH DISABIL-**
4 **ITIES**

5 **SEC. 401. NATIONAL ACTIVITIES TO IMPROVE EDUCATION**
6 **OF CHILDREN WITH DISABILITIES.**

7 Part D of the Individuals with Disabilities Education
8 Act (20 U.S.C. 1451 et seq.) is amended to read as fol-
9 lows:

10 **“PART D—NATIONAL ACTIVITIES TO IMPROVE**
11 **EDUCATION OF CHILDREN WITH DISABILITIES**

12 **“SEC. 651. FINDINGS.**

13 “The Congress finds the following:

14 “(1) The Federal Government has an ongoing
15 obligation to support activities that contribute to
16 positive results for children with disabilities, ena-
17 bling them to lead productive and independent adult
18 lives.

19 “(2) Systemic change benefiting all students,
20 including children with disabilities, requires the in-
21 volvement of States, local educational agencies, par-
22 ents, individuals with disabilities and their families,
23 teachers and other service providers, and other inter-
24 ested individuals and organizations, to develop and



1 implement comprehensive strategies that improve
2 educational results for children with disabilities.

3 “(3) State educational agencies, in partnership
4 with local educational agencies, parents of children
5 with disabilities, and other individuals and organiza-
6 tions, are in the best position to improve education
7 for children with disabilities and to address their
8 special needs.

9 “(4) An effective educational system serving
10 students with disabilities should—

11 “(A) maintain high academic standards
12 and clear achievement goals for children, con-
13 sistent with the standards and expectations for
14 all students in the educational system, and pro-
15 vide for appropriate and effective strategies and
16 methods to ensure that all children with disabil-
17 ities have the opportunity to achieve those
18 standards and goals;

19 “(B) clearly define, in objective, measur-
20 able terms, the school and post-school results
21 that children with disabilities are expected to
22 achieve; and

23 “(C) promote transition services, as de-
24 scribed in section 602(31), and coordinate State
25 and local education, social, health, mental



1 health, and other services, to address the full
2 range of student needs, particularly the needs
3 of children with disabilities who require signifi-
4 cant levels of support to participate and learn
5 in school and the community.

6 “(5) The availability of an adequate number of
7 qualified personnel is critical in order to serve effec-
8 tively children with disabilities, fill leadership posi-
9 tions in administrative and direct-service capacities,
10 provide teacher training, and conduct high-quality
11 research to improve special education.

12 “(6) High-quality, comprehensive professional
13 development programs are essential to ensure that
14 the persons responsible for the education or transi-
15 tion of children with disabilities possess the skills
16 and knowledge necessary to address the educational
17 and related needs of those children.

18 “(7) Models of professional development should
19 be scientifically based and reflect successful prac-
20 tices, including strategies for recruiting, preparing,
21 and retaining personnel.

22 “(8) Continued support is essential for the de-
23 velopment and maintenance of a coordinated and
24 high-quality program of research to inform success-



1 ful teaching practices and model curricula for edu-
2 cating children with disabilities.

3 “(9) A comprehensive research agenda should
4 be established and pursued to promote the highest
5 quality and rigor in special education research, and
6 to address the full range of issues facing children
7 with disabilities, parents of children with disabilities,
8 school personnel, and others.

9 “(10) Technical assistance, support, and dis-
10 semination activities are necessary to ensure that
11 parts B and C are fully implemented and achieve
12 quality early intervention, educational, and transi-
13 tional results for children with disabilities and their
14 families.

15 “(11) Parents, teachers, administrators, and re-
16 lated services personnel need technical assistance
17 and information in a timely, coordinated, and acces-
18 sible manner in order to improve early intervention,
19 educational, and transitional services and results at
20 the State and local levels for children with disabil-
21 ities and their families.

22 “(12) Parent and community training and in-
23 formation activities assist parents of a child with a
24 disability in dealing with the multiple pressures of



1 parenting such a child and are of particular impor-
2 tance in—

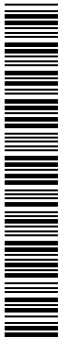
3 “(A) creating and preserving constructive
4 relationships between parents of children with
5 disabilities and schools by facilitating open com-
6 munication between such parents and schools,
7 encouraging dispute resolution at the earliest
8 point in time possible, and discouraging the es-
9 calation of an adversarial process between such
10 parents and schools;

11 “(B) ensuring the involvement of such par-
12 ents in planning and decision-making with re-
13 spect to early intervention, educational, and
14 transitional services;

15 “(C) achieving high-quality early interven-
16 tion, educational, and transitional results for
17 children with disabilities;

18 “(D) providing such parents information
19 on their rights, protections, and responsibilities
20 under this Act to ensure improved early inter-
21 vention, educational, and transitional results for
22 children with disabilities;

23 “(E) assisting such parents in the develop-
24 ment of skills to participate effectively in the



1 education and development of their children and
2 in the transitions described in section 602(31);

3 “(F) supporting the roles of such parents
4 as participants within partnerships seeking to
5 improve early intervention, educational, and
6 transitional services and results for children
7 with disabilities and their families; and

8 “(G) supporting those parents who may
9 have limited access to services and supports due
10 to economic, cultural, or linguistic barriers.

11 “(13) Support is needed to improve techno-
12 logical resources and integrate technology into the
13 lives of children with disabilities, parents of children
14 with disabilities, school personnel, and others
15 through curricula, services, and assistive tech-
16 nologies.

17 **“Subpart 1—State Professional Development Grants**

18 **“SEC. 652. PURPOSE.**

19 “The purpose of this subpart is to assist State edu-
20 cational agencies in reforming and improving their sys-
21 tems for professional development in early intervention,
22 educational, and transition services in order to improve re-
23 sults for children with disabilities.



1 **“SEC. 653. ELIGIBILITY AND COLLABORATIVE PROCESS.**

2 “(a) ELIGIBLE APPLICANTS.—A State educational
3 agency may apply for a grant under this subpart for a
4 period of not less than 1 year and not more than 5 years.

5 “(b) PARTNERS.—

6 “(1) REQUIRED PARTNERS.—In order to be
7 considered for a grant under this subpart, a State
8 educational agency shall enter into a partnership
9 agreement with local educational agencies and other
10 State agencies involved in, or concerned with, the
11 education of children with disabilities.

12 “(2) OPTIONAL PARTNERS.—In addition, a
13 State educational agency may enter into a partner-
14 ship agreement with any of the following:

15 “(A) The Governor.

16 “(B) Parents of children with disabilities
17 ages birth through 26.

18 “(C) Parents of nondisabled children ages
19 birth through 26.

20 “(D) Individuals with disabilities.

21 “(E) Organizations representing individ-
22 uals with disabilities and their parents, such as
23 parent and community training and information
24 centers.



1 “(F) Community-based and other non-
2 profit organizations involved in the education
3 and employment of individuals with disabilities.

4 “(G) The lead State agency for part C.

5 “(H) General and special education teach-
6 ers, and early intervention personnel.

7 “(I) The State advisory panel established
8 under part C.

9 “(J) The State interagency coordinating
10 council established under part C.

11 “(K) Institutions of higher education with-
12 in the State.

13 “(L) Individuals knowledgeable about voca-
14 tional education.

15 “(M) The State agency for higher edu-
16 cation.

17 “(N) The State vocational rehabilitation
18 agency.

19 “(O) Public agencies with jurisdiction in
20 the areas of health, mental health, social serv-
21 ices, and juvenile justice.

22 “(P) Other providers of professional devel-
23 opment that work with students with disabil-
24 ities.

25 “(Q) Other individuals.



1 **“SEC. 654. APPLICATIONS.**

2 “(a) IN GENERAL.—

3 “(1) SUBMISSION.—A State educational agency
4 that desires to receive a grant under this subpart
5 shall submit to the Secretary an application at such
6 time, in such manner, and including such informa-
7 tion as the Secretary may require.

8 “(2) STATE PLAN.—The application shall in-
9 clude a plan that addresses the State and local
10 needs for the professional development of adminis-
11 trators, principals, teachers, and individuals who
12 provide direct supplementary aids and services to
13 children with disabilities, and that—

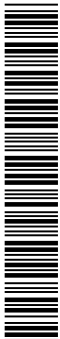
14 “(A) is integrated, to the maximum extent
15 possible, with State plans under the Elementary
16 and Secondary Education Act of 1965, the Re-
17 habilitation Act of 1973, and the Higher Edu-
18 cation Act of 1965, as appropriate; and

19 “(B) is designed to enable the State to
20 meet the requirements of section 612(a)(15) of
21 this Act.

22 “(b) ELEMENTS OF STATE PLAN.—Each State plan
23 shall—

24 “(1) describe a partnership agreement that—

25 “(A) specifies—



1 “(i) the nature and extent of the part-
2 nership among the State educational agen-
3 cy, local educational agencies, and other
4 State agencies involved in, or concerned
5 with, the education of children with disabil-
6 ities, and the respective roles of each mem-
7 ber of the partnership; and

8 “(ii) how such agencies will work in
9 partnership with other persons and organi-
10 zations involved in, and concerned with,
11 the education of children with disabilities,
12 including the respective roles of each of
13 these persons and organizations; and

14 “(B) is in effect for the period of the
15 grant;

16 “(2) describe how grant funds, including part B
17 funds retained for use at the State level under sec-
18 tions 611(f) and 619(d), and other Federal funds
19 will be used to support activities conducted under
20 this subpart;

21 “(3) describe the strategies the State will use to
22 implement the plan to improve results for children
23 with disabilities, including—

24 “(A) how the State will align its profes-
25 sional development plan with the plans sub-



1 mitted by the State under sections 1111 and
2 2112 of the Elementary and Secondary Edu-
3 cation Act of 1965;

4 “(B) how the State will provide technical
5 assistance to local educational agencies and
6 schools to improve the quality of professional
7 development available to meet the needs of per-
8 sonnel that serve children with disabilities;

9 “(C) how the State will assess, on a reg-
10 ular basis, the extent to which the strategies
11 implemented under this subpart have been ef-
12 fective in meeting the achievement goals and in-
13 dicators in section 612(a)(16);

14 “(4) describe, as appropriate, how the strate-
15 gies described in paragraph (3) will be coordinated
16 with public and private sector resources; and

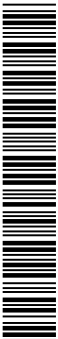
17 “(5) include an assurance that the State will
18 use funds received under this subpart to carry out
19 each of the activities specified in the plan.

20 “(c) COMPETITIVE AWARDS.—

21 “(1) IN GENERAL.—The Secretary shall make
22 grants under this subpart on a competitive basis.

23 “(2) PRIORITY.—The Secretary may give pri-
24 ority to applications on the basis of need.

25 “(d) PEER REVIEW.—



1 “(1) IN GENERAL.—The Secretary shall evalu-
2 ate applications under this subpart using a panel of
3 experts who are qualified by virtue of their training,
4 expertise, or experience.

5 “(2) COMPOSITION OF PANEL.—A majority of a
6 panel described in paragraph (1) shall be composed
7 of individuals who are not employees of the Federal
8 Government.

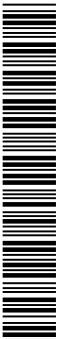
9 “(3) PAYMENT OF FEES AND EXPENSES OF
10 CERTAIN MEMBERS.—The Secretary may use avail-
11 able funds appropriated to carry out this subpart to
12 pay the expenses and fees of panel members who are
13 not employees of the Federal Government.

14 “(e) REPORTING PROCEDURES.—Each State edu-
15 cational agency that receives a grant under this subpart
16 shall submit annual performance reports to the Secretary.
17 The reports shall—

18 “(1) describe the progress of the State in imple-
19 menting its plan;

20 “(2) analyze the effectiveness of the State’s ac-
21 tivities under this subpart and of the State’s strate-
22 gies for meeting its goals under section 612(a)(16);
23 and

24 “(3) identify any changes in such strategies
25 needed to improve its performance.



1 **“SEC. 655. USE OF FUNDS.**

2 “(a) IN GENERAL.—

3 “(1) ACTIVITIES.—A State educational agency
4 that receives a grant under this subpart shall use
5 the grant funds, subject to subsection (b), for the
6 following:

7 “(A) PROFESSIONAL DEVELOPMENT.—

8 “(i) Carrying out programs that sup-
9 port the professional development of early
10 intervention personnel, and both special
11 education and regular education teachers
12 of children with disabilities, such as pro-
13 grams that—

14 “(I) provide teacher mentoring,
15 team teaching, reduced class sched-
16 ules, and intensive professional devel-
17 opment; and

18 “(II) use standards or assess-
19 ments for guiding beginning teachers
20 that are consistent with challenging
21 State student academic achievement
22 standards and with the definition of
23 professional development in section
24 9101 of the Elementary and Sec-
25 ondary Education Act of 1965.



1 “(ii) Encouraging and supporting the
2 training of special education and regular
3 education teachers and administrators to
4 effectively integrate technology into cur-
5 ricula and instruction, including training
6 to improve the ability to collect, manage,
7 and analyze data to improve teaching, deci-
8 sionmaking, school improvement efforts,
9 and accountability.

10 “(iii) Providing professional develop-
11 ment activities that improve the knowledge
12 of special education and regular education
13 teachers concerning—

14 “(I) the academic and develop-
15 mental needs of students with disabil-
16 ities; and

17 “(II) effective instructional strat-
18 egies, methods, and skills, use of chal-
19 lenging State academic content stand-
20 ards and student academic achieve-
21 ment standards, and use of State as-
22 sessments, to improve teaching prac-
23 tices and student academic achieve-
24 ment.



1 “(iv) Providing professional develop-
2 ment activities that—

3 “(I) improve the knowledge of
4 special education and regular edu-
5 cation teachers and principals and, in
6 appropriate cases, paraprofessionals,
7 concerning effective instructional
8 practices;

9 “(II) provide training in how to
10 teach and address the needs of stu-
11 dents with different learning styles;

12 “(III) involve collaborative
13 groups of teachers and administra-
14 tors;

15 “(IV) provide training in meth-
16 ods of—

17 “(aa) positive behavior inter-
18 ventions and supports to improve
19 student behavior in the class-
20 room;

21 “(bb) scientifically based
22 reading instruction, including
23 early literacy instruction; and



1 “(cc) early and appropriate
2 interventions to identify and help
3 students with disabilities;

4 “(V) provide training to enable
5 special education and regular edu-
6 cation teachers and principals to in-
7 volve parents in their child’s edu-
8 cation, especially parents of low in-
9 come and limited English proficient
10 children with disabilities; or

11 “(VI) train administrators and
12 other relevant school personnel in con-
13 ducting facilitated individualized edu-
14 cation program meetings.

15 “(v) Developing and implementing ini-
16 tiatives to promote retention of highly
17 qualified special education teachers, includ-
18 ing programs that provide—

19 “(I) teacher mentoring from ex-
20 emplary special education teachers,
21 principals, or superintendents;

22 “(II) induction and support for
23 special education teachers during their
24 first 3 years of employment as teach-
25 ers; or



1 “(III) incentives, including finan-
2 cial incentives, to retain special edu-
3 cation teachers who have a record of
4 success in helping students with dis-
5 abilities improve their academic
6 achievement.

7 “(vi) Carrying out programs and ac-
8 tivities that are designed to improve the
9 quality of the teacher force that serves
10 children with disabilities, such as—

11 “(I) innovative professional devel-
12 opment programs (which may be pro-
13 vided through partnerships including
14 institutions of higher education), in-
15 cluding programs that train teachers
16 and principals to integrate technology
17 into curricula and instruction to im-
18 prove teaching, learning, and tech-
19 nology literacy, are consistent with the
20 requirements of section 9101 of the
21 Elementary and Secondary Education
22 Act of 1965, and are coordinated with
23 activities carried out under this part;
24 and



1 “(II) development and use of
2 proven, cost-effective strategies for the
3 implementation of professional devel-
4 opment activities, such as through the
5 use of technology and distance learn-
6 ing.

7 “(B) STATE ACTIVITIES.—

8 “(i) Reforming special education and
9 regular education teacher certification (in-
10 cluding recertification) or licensing require-
11 ments to ensure that—

12 “(I) special education and reg-
13 ular education teachers have the
14 training and information necessary to
15 address the wide variety of needs of
16 children with disabilities across dis-
17 ability categories;

18 “(II) special education and reg-
19 ular education teachers have the nec-
20 essary subject matter knowledge and
21 teaching skills in the academic sub-
22 jects that the teachers teach;

23 “(III) special education and reg-
24 ular education teacher certification
25 (including recertification) or licensing

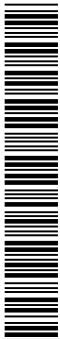


1 requirements are aligned with chal-
2 lenging State academic content stand-
3 ards; and

4 “(IV) special education and reg-
5 ular education teachers have the sub-
6 ject matter knowledge and teaching
7 skills, including technology literacy,
8 necessary to help students meet chal-
9 lenging State student academic
10 achievement standards.

11 “(ii) Carrying out programs that es-
12 tablish, expand, or improve alternative
13 routes for State certification of special
14 education teachers for individuals who
15 demonstrate the potential to become highly
16 effective special education teachers, such
17 as individuals with a baccalaureate or mas-
18 ter’s degree (including mid-career profes-
19 sionals from other occupations), para-
20 professionals, former military personnel,
21 and recent college or university graduates
22 with records of academic distinction.

23 “(iii) Carrying out teacher advance-
24 ment initiatives for special education
25 teachers that promote professional growth



1 and emphasize multiple career paths (such
2 as paths to becoming a career teacher,
3 mentor teacher, or exemplary teacher) and
4 pay differentiation.

5 “(iv) Developing and implementing
6 mechanisms to assist local educational
7 agencies and schools in effectively recruit-
8 ing and retaining highly qualified special
9 education teachers.

10 “(v) Reforming tenure systems, imple-
11 menting teacher testing for subject matter
12 knowledge, and implementing teacher test-
13 ing for State certification or licensing, con-
14 sistent with title II of the Higher Edu-
15 cation Act of 1965.

16 “(vi) Developing and implementing
17 mechanisms to assist schools in effectively
18 recruiting and retaining highly qualified
19 special education teachers.

20 “(vii) Funding projects to promote
21 reciprocity of teacher certification or li-
22 censing between or among States for spe-
23 cial education teachers, except that no reci-
24 procity agreement developed under this
25 clause or developed using funds provided

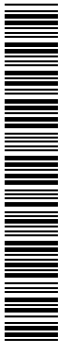


1 under this subpart may lead to the weak-
2 ening of any State teaching certification or
3 licensing requirement.

4 “(viii) Developing or assisting local
5 educational agencies to serve children with
6 disabilities through the development and
7 use of proven, innovative strategies to de-
8 liver intensive professional development
9 programs that are both cost-effective and
10 easily accessible, such as strategies that in-
11 involve delivery through the use of tech-
12 nology, peer networks, and distance learn-
13 ing.

14 “(ix) Developing, or assisting local
15 educational agencies in developing, merit-
16 based performance systems, and strategies
17 that provide differential and bonus pay for
18 special education teachers.

19 “(x) Supporting activities that ensure
20 that teachers are able to use challenging
21 State academic content standards and stu-
22 dent academic achievement standards, and
23 State assessments, to improve instructional
24 practices and improve the academic
25 achievement of children with disabilities.



1 “(xi) Coordinating with, and expand-
2 ing, centers established under section
3 2113(c)(18) of the Elementary and Sec-
4 ondary Education Act of 1965 to benefit
5 special education teachers.

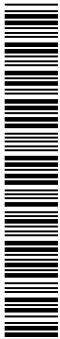
6 “(2) CONTRACTS AND SUBGRANTS.—Each such
7 State educational agency—

8 “(A) shall, consistent with its partnership
9 agreement under section 654(b)(1), award con-
10 tracts or subgrants to local educational agen-
11 cies, institutions of higher education, and par-
12 ent and community training and information
13 centers, as appropriate, to carry out its State
14 plan under this subpart; and

15 “(B) may award contracts and subgrants
16 to other public and private entities, including
17 the lead agency under part C, to carry out such
18 plan.

19 “(b) USE OF FUNDS FOR PROFESSIONAL DEVELOP-
20 MENT.—A State educational agency that receives a grant
21 under this subpart shall use—

22 “(1) not less than 90 percent of the funds it re-
23 ceives under the grant for any fiscal year for activi-
24 ties under subsection (a)(1)(A); and



1 “(2) not more than 10 percent of the funds it
2 receives under the grant for any fiscal year for ac-
3 tivities under subsection (a)(1)(B).

4 “(c) GRANTS TO OUTLYING AREAS.—Public Law 95–
5 134, permitting the consolidation of grants to the outlying
6 areas, shall not apply to funds received under this subpart.

7 **“SEC. 656. STATE GRANT AMOUNTS.**

8 “(a) IN GENERAL.—The Secretary shall make a
9 grant to each State educational agency whose application
10 the Secretary has selected for funding under this subpart
11 in an amount for each fiscal year that is—

12 “(1) not less than \$500,000, nor more than
13 \$2,000,000, in the case of the 50 States, the Dis-
14 trict of Columbia, and the Commonwealth of Puerto
15 Rico; and

16 “(2) not less than \$80,000, in the case of an
17 outlying area.

18 “(b) FACTORS.—The Secretary shall set the amount
19 of each grant under subsection (a) after considering—

20 “(1) the amount of funds available for making
21 the grants;

22 “(2) the relative population of the State or out-
23 lying area; and

24 “(3) the types of activities proposed by the
25 State or outlying area, including—



1 “(A) the alignment of proposed activities
2 with paragraphs (14) and (15) of section
3 612(a);

4 “(B) the alignment of proposed activities
5 with the plans submitted under sections 1111
6 and 2112 of the Elementary and Secondary
7 Education Act of 1965; and

8 “(C) the use, as appropriate, of scientif-
9 ically-based research.

10 **“SEC. 657. AUTHORIZATION OF APPROPRIATIONS.**

11 “There are authorized to be appropriated to carry out
12 this subpart \$44,000,000 for fiscal year 2004 and such
13 sums as may be necessary for each of the fiscal years 2005
14 through 2009.

15 **Subpart 2—Scientifically Based Research; Technical**
16 **Assistance; Model Demonstration Projects; Dis-**
17 **semination of Information; and Personnel Prep-**
18 **aration Programs**

19 **“SEC. 661. PURPOSE.**

20 “The purpose of this subpart is to provide Federal
21 funding for scientifically based research, technical assist-
22 ance, model demonstration projects, information dissemi-
23 nation, and personnel preparation programs to improve
24 early intervention, educational, and transitional results for
25 children with disabilities.



1 **“SEC. 662. ADMINISTRATIVE PROVISIONS.**

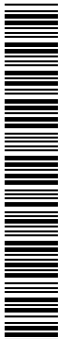
2 “(a) COMPREHENSIVE PLAN.—

3 “(1) IN GENERAL.—The Secretary shall develop
4 and implement a comprehensive plan for activities
5 carried out under this subpart (other than section
6 663) in order to enhance the provision of edu-
7 cational, related, transitional, and early intervention
8 services to children with disabilities under parts B
9 and C. The plan shall include mechanisms to ad-
10 dress educational, related services, transitional, and
11 early intervention needs identified by State edu-
12 cational agencies in applications submitted under
13 subpart 1.

14 “(2) PUBLIC COMMENT.—The Secretary shall
15 provide a public comment period of at least 30 days
16 on the plan.

17 “(3) DISTRIBUTION OF FUNDS.—In imple-
18 menting the plan, the Secretary shall, to the extent
19 appropriate, ensure that funds are awarded to re-
20 cipients under this subpart to carry out activities
21 that benefit, directly or indirectly, children with dis-
22 abilities of all ages.

23 “(4) REPORTS TO CONGRESS.—The Secretary
24 shall annually report to the Congress on the Sec-
25 retary’s activities under this subsection, including an
26 initial report not later than the date that is 12



1 months after the date of the enactment of Improving
2 Education Results for Children With Disabilities Act
3 of 2003.

4 “(b) ELIGIBLE APPLICANTS.—

5 “(1) IN GENERAL.—Except as otherwise pro-
6 vided in this subpart, the following entities are eligi-
7 ble to apply for a grant, contract, or cooperative
8 agreement under this subpart:

9 “(A) A State educational agency.

10 “(B) A local educational agency.

11 “(C) A public charter school that is a local
12 educational agency under State law.

13 “(D) An institution of higher education.

14 “(E) Any other public agency.

15 “(F) A private nonprofit organization.

16 “(G) An outlying area.

17 “(H) An Indian tribe or a tribal organiza-
18 tion (as defined under section 4 of the Indian
19 Self-Determination and Education Assistance
20 Act (25 U.S.C. 450b)).

21 “(I) A for-profit organization.

22 “(2) SPECIAL RULE.—The Secretary may limit
23 the entities eligible for an award of a grant, con-
24 tract, or cooperative agreement to one or more cat-



1 egories of eligible entities described in paragraph
2 (1).

3 “(c) SPECIAL POPULATIONS.—

4 “(1) APPLICATION REQUIREMENT.—In making
5 an award of a grant, contract, or cooperative agree-
6 ment under this subpart, the Secretary shall, as ap-
7 propriate, require an applicant to demonstrate how
8 the applicant will address the needs of children with
9 disabilities from minority backgrounds.

10 “(2) REQUIRED OUTREACH AND TECHNICAL AS-
11 SISTANCE.—Notwithstanding any other provision of
12 this Act, the Secretary shall reserve at least one per-
13 cent of the total amount of funds appropriated to
14 carry out this subpart for either or both of the fol-
15 lowing activities:

16 “(A) Providing outreach and technical as-
17 sistance to historically black colleges and uni-
18 versities, and to institutions of higher education
19 with minority enrollments of at least 25 per-
20 cent, to promote the participation of such col-
21 leges, universities, and institutions in activities
22 under this subpart.

23 “(B) Enabling historically black colleges
24 and universities, and the institutions described
25 in subparagraph (A), to assist other colleges,



1 universities, institutions, and agencies in im-
2 proving educational and transitional results for
3 children with disabilities, if such grant appli-
4 cants meet the criteria established by the Sec-
5 retary under this subpart.

6 “(d) PRIORITIES.—The Secretary, in making an
7 award of a grant, contract, or cooperative agreement
8 under this subpart, may, without regard to the rulemaking
9 procedures under section 553 of title 5, United States
10 Code, limit competitions to, or otherwise give priority to—

11 “(1) projects that address one or more—

12 “(A) age ranges;

13 “(B) disabilities;

14 “(C) school grades;

15 “(D) types of educational placements or
16 early intervention environments;

17 “(E) types of services;

18 “(F) content areas, such as reading; or

19 “(G) effective strategies for helping chil-
20 dren with disabilities learn appropriate behavior

21 in the school and other community-based edu-
22 cational settings;

23 “(2) projects that address the needs of children
24 based on the severity or incidence of their disability;

25 “(3) projects that address the needs of—



1 “(A) low-achieving students;
2 “(B) underserved populations;
3 “(C) children from low-income families;
4 “(D) children with limited English pro-
5 ficiency;
6 “(E) unserved and underserved areas;
7 “(F) rural or urban areas;
8 “(G) children whose behavior interferes
9 with their learning and socialization;
10 “(H) children with intractable reading dif-
11 ficulties; and
12 “(I) children in public charter schools;
13 “(4) projects to reduce inappropriate identifica-
14 tion of children as children with disabilities, particu-
15 larly among minority children; and
16 “(5) any activity that is expressly authorized in
17 this subpart or subpart 3.

18 “(e) APPLICANT AND RECIPIENT RESPONSIBIL-
19 ITIES.—

20 “(1) DEVELOPMENT AND ASSESSMENT OF
21 PROJECTS.—The Secretary shall require that an ap-
22 plicant for, and a recipient of, a grant, contract, or
23 cooperative agreement for a project under this
24 subpart—



1 “(A) involve individuals with disabilities, or
2 parents of individuals with disabilities ages
3 birth through 26, in planning, implementing,
4 and evaluating the project; and

5 “(B) where appropriate, determine whether
6 the project has any potential for replication and
7 adoption by other entities.

8 “(2) ADDITIONAL RESPONSIBILITIES.—The
9 Secretary may require a recipient of a grant, con-
10 tract, or cooperative agreement for a project under
11 this subpart—

12 “(A) to share in the cost of the project;

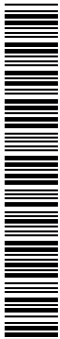
13 “(B) to prepare the research and evalua-
14 tion findings and products from the project in
15 formats that are useful for specific audiences,
16 including parents, administrators, teachers,
17 early intervention personnel, related services
18 personnel, and individuals with disabilities;

19 “(C) to disseminate such findings and
20 products; and

21 “(D) to collaborate with other such recipi-
22 ents in carrying out subparagraphs (B) and
23 (C).

24 “(f) APPLICATION MANAGEMENT.—

25 “(1) STANDING PANEL.—



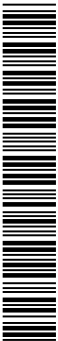
1 “(A) IN GENERAL.—The Secretary shall
2 establish and use a standing panel of experts
3 who are qualified, by virtue of their training,
4 expertise, or experience, to evaluate applications
5 under this subpart (other than section 663)
6 that, individually, request more than \$75,000
7 per year in Federal financial assistance.

8 “(B) MEMBERSHIP.—The standing panel
9 shall include, at a minimum—

10 “(i) individuals who are representa-
11 tives of institutions of higher education
12 that plan, develop, and carry out high-
13 quality programs of personnel preparation;

14 “(ii) individuals who design and carry
15 out scientifically-based research targeted to
16 the improvement of special education pro-
17 grams and services;

18 “(iii) individuals who have recognized
19 experience and knowledge necessary to in-
20 tegrate and apply scientifically-based re-
21 search findings to improve educational and
22 transitional results for children with dis-
23 abilities;



1 “(iv) individuals who administer pro-
2 grams at the State or local level in which
3 children with disabilities participate;

4 “(v) individuals who prepare parents
5 of children with disabilities to participate
6 in making decisions about the education of
7 their children;

8 “(vi) individuals who establish policies
9 that affect the delivery of services to chil-
10 dren with disabilities;

11 “(vii) individuals who are parents of
12 children with disabilities ages birth
13 through 21 who are benefiting, or have
14 benefited, from coordinated research, per-
15 sonnel preparation, and technical assist-
16 ance; and

17 “(viii) individuals with disabilities.

18 “(C) TERM.—No individual shall serve on
19 the standing panel for more than 3 consecutive
20 years.

21 “(2) PEER-REVIEW PANELS FOR PARTICULAR
22 COMPETITIONS.—

23 “(A) COMPOSITION.—The Secretary shall
24 ensure that each sub-panel selected from the
25 standing panel that reviews applications under



1 this subpart (other than section 663)
2 includes—

3 “(i) individuals with knowledge and
4 expertise on the issues addressed by the
5 activities authorized by the subpart; and

6 “(ii) to the extent practicable, parents
7 of children with disabilities ages birth
8 through 21, individuals with disabilities,
9 and persons from diverse backgrounds.

10 “(B) FEDERAL EMPLOYMENT LIMITA-
11 TION.—A majority of the individuals on each
12 sub-panel that reviews an application under this
13 subpart (other than section 663) shall be indi-
14 viduals who are not employees of the Federal
15 Government.

16 “(3) USE OF DISCRETIONARY FUNDS FOR AD-
17 MINISTRATIVE PURPOSES.—

18 “(A) EXPENSES AND FEES OF NON-FED-
19 ERAL PANEL MEMBERS.—The Secretary may
20 use funds available under this subpart to pay
21 the expenses and fees of the panel members
22 who are not officers or employees of the Fed-
23 eral Government.

24 “(B) ADMINISTRATIVE SUPPORT.—The
25 Secretary may use not more than 1 percent of



1 the funds appropriated to carry out this sub-
2 part to pay non-Federal entities for administra-
3 tive support related to management of applica-
4 tions submitted under this subpart.

5 “(g) PROGRAM EVALUATION.—The Secretary may
6 use funds appropriated to carry out this subpart to evalu-
7 ate activities carried out under the subpart.

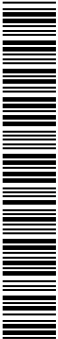
8 “(h) MINIMUM FUNDING REQUIRED.—

9 “(1) IN GENERAL.—Subject to paragraph (2),
10 the Secretary shall ensure that, for each fiscal year,
11 at least the following amounts are provided under
12 this subpart to address the following needs:

13 “(A) \$12,832,000 to address the edu-
14 cational, related services, transitional, and early
15 intervention needs of children with deaf-blind-
16 ness.

17 “(B) \$4,000,000 to address the postsec-
18 ondary, vocational, technical, continuing, and
19 adult education needs of individuals with deaf-
20 ness.

21 “(C) \$4,000,000 to address the edu-
22 cational, related services, and transitional needs
23 of children with an emotional disturbance and
24 those who are at risk of developing an emo-
25 tional disturbance.



1 “(2) RATABLE REDUCTION.—If the total
2 amount appropriated to carry out this subpart for
3 any fiscal year is less than \$130,000,000, the
4 amounts listed in paragraph (1) shall be ratably re-
5 duced.

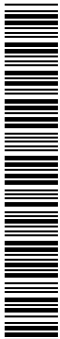
6 “(i) ELIGIBILITY FOR FINANCIAL ASSISTANCE.—Ef-
7 fective for fiscal years for which the Secretary may make
8 grants under section 619(b), no State or local educational
9 agency or educational service agency or other public insti-
10 tution or agency may receive a grant under this subpart
11 which relates exclusively to programs, projects, and activi-
12 ties pertaining to children aged 3 through 5, inclusive, un-
13 less the State is eligible to receive a grant under section
14 619(b).

15 **“SEC. 663. RESEARCH TO IMPROVE RESULTS FOR CHIL-**
16 **DREN WITH DISABILITIES**

17 “(a) NATIONAL CENTER FOR SPECIAL EDUCATION
18 RESEARCH.—

19 “(1) ESTABLISHMENT.—

20 “(A) IN GENERAL.—There is established,
21 in the Institute of Education Sciences estab-
22 lished under section 111 of the Education
23 Sciences Reform Act of 2002 (Public Law 107–
24 279; 116 Stat. 1944) (hereinafter in this sec-



1 tion referred to as ‘the Institute’), the National
2 Center for Special Education Research.

3 “(B) COMMISSIONER.—The National Cen-
4 ter for Special Education Research shall be
5 headed by a Commissioner for Special Edu-
6 cation Research (hereinafter in this section re-
7 ferred to as ‘the Commissioner’). The Commis-
8 sioner shall be appointed by the Director of the
9 Institute (hereinafter in this section referred to
10 as ‘the Director’) in accordance with section
11 117 of the Education Sciences Reform Act of
12 2002. The Commissioner shall have substantial
13 knowledge of the Center’s activities, including a
14 high level of expertise in the fields of research
15 and research management.

16 “(2) APPLICABILITY OF EDUCATION SCIENCE
17 REFORM ACT OF 2002.—Parts A and E of the Edu-
18 cation Sciences Reform Act of 2002, as well as the
19 standards for peer review of applications and for the
20 conduct and evaluation of research under sections
21 133(a) and 134 of such Act, shall apply to the Sec-
22 retary, the Director, and the Commissioner in car-
23 rying out this section.

24 “(b) COMPETITIVE GRANTS.—The Director shall
25 make competitive grants to, or enter into contracts or co-



1 operative agreements with, eligible entities to expand the
2 fundamental knowledge and understanding of the edu-
3 cation of infants, toddlers, and children with disabilities
4 in order to improve educational results for such individ-
5 uals, in accordance with the priorities determined under
6 this section.

7 “(c) AUTHORIZED ACTIVITIES.—Activities that may
8 be carried out under this section include research
9 activities—

10 “(1) to improve services provided under this
11 Act in order to improve academic achievement for
12 children with disabilities;

13 “(2) to investigate scientifically based edu-
14 cational practices that support learning and improve
15 academic achievement and progress for all students
16 with disabilities;

17 “(3) to examine the special needs of preschool-
18 aged children and infants and toddlers with disabil-
19 ities, including factors that may result in develop-
20 mental delays;

21 “(4) to improve the alignment, compatibility,
22 and development of valid and reliable assessment
23 methods for assessing adequate yearly progress, as
24 described under section 1111(b)(2)(B) of the Ele-



1 mentary and Secondary Education Act of 1965 (20
2 U.S.C. 6311(b)(2)(B));

3 “(5) to improve the alignment, compatibility,
4 and development of valid and reliable alternate as-
5 sessment methods for assessing adequate yearly
6 progress, as described under such section
7 1111(b)(2)(B);

8 “(6) to examine the educational and develop-
9 mental needs of children with high-incidence and
10 low-incidence disabilities;

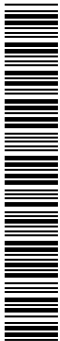
11 “(7) to examine the extent to which over-identi-
12 fication and under-identification of children with dis-
13 abilities occurs, and the causes thereof;

14 “(8) to improve reading and literacy skills for
15 children with disabilities;

16 “(9) to examine and improve secondary and
17 postsecondary education and transitional needs of
18 children with disabilities;

19 “(10) to examine methods of early intervention
20 for children with disabilities who need significant
21 levels of support;

22 “(11) to examine universal design concepts in
23 the development of assessments, curricula, and in-
24 structional methods as a method to improve edu-
25 cational results for children with disabilities;



1 “(12) to improve the professional preparation
2 for personnel who provide educational and related
3 services to children with disabilities, including chil-
4 dren with low-incidence disabilities, to increase aca-
5 demic achievement of children with disabilities; and

6 “(13) to examine the excess costs of educating
7 a child with a disability and expenses associated with
8 high-cost special education and related services.

9 “(d) PRIORITIES.—Following the procedures de-
10 scribed in section 115 of the Education Sciences Reform
11 Act of 2002, the Director, with the advice of the Assistant
12 Secretary for Special Education and Rehabilitative Serv-
13 ices, shall develop priorities for carrying out this section
14 that—

15 “(1) are consistent with the purposes of this
16 Act;

17 “(2) reflect an appropriate balance across all
18 age ranges of children with disabilities;

19 “(3) provide for research that is objective and
20 that uses measurable indicators to assess its
21 progress and results;

22 “(4) include both basic research and applied re-
23 search, which shall include research conducted
24 through field-initiated studies and which may in-
25 clude ongoing research initiatives; and



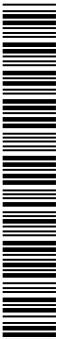
1 “(5) ensure that the research conducted under
2 this section is relevant to special education practice
3 and policy.

4 “(e) APPLICATIONS.—An eligible entity that wishes
5 to receive a grant, or enter into a contract or cooperative
6 agreement, under this section shall submit an application
7 to the Commissioner at such time, in such manner, and
8 containing such information as the Commissioner may re-
9 quire.

10 **“SEC. 664. TECHNICAL ASSISTANCE, DEMONSTRATION**
11 **PROJECTS, DISSEMINATION OF INFORMA-**
12 **TION, AND IMPLEMENTATION OF SCIENTIF-**
13 **ICALLY BASED RESEARCH.**

14 “(a) IN GENERAL.—The Secretary shall make com-
15 petitive grants to, or enter into contracts or cooperative
16 agreements with, eligible entities to provide technical as-
17 sistance, support model demonstration projects, dissemi-
18 nate useful information, and implement activities that are
19 supported by scientifically based research.

20 “(b) REQUIRED ACTIVITIES.—Funds received under
21 this section shall be used to support activities to improve
22 services provided under this Act, including the practices
23 of professionals and others involved in providing such serv-
24 ices to children with disabilities, that promote academic



1 achievement and improve results for children with disabil-
2 ities through—

3 “(1) implementing effective strategies for ad-
4 dressing inappropriate behavior of students with dis-
5 abilities in schools, including strategies to prevent
6 children with emotional and behavioral problems
7 from developing emotional disturbances that require
8 the provision of special education and related serv-
9 ices;

10 “(2) improving the alignment, compatibility,
11 and development of valid and reliable assessments
12 and alternate assessments for assessing adequate
13 yearly progress, as described under section
14 1111(b)(2)(B) of the Elementary and Secondary
15 Education Act of 1965; and

16 “(3) providing training for both regular edu-
17 cation teachers and special education teachers to ad-
18 dress the needs of students with different learning
19 styles.

20 “(c) AUTHORIZED ACTIVITIES.—Activities that may
21 be carried out under this section include activities to im-
22 prove services provided under this Act, including the prac-
23 tices of professionals and others involved in providing such
24 services to children with disabilities, that promote aca-



1 demic achievement and improve results for children with
2 disabilities through—

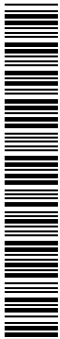
3 “(1) identifying innovative, effective, and effi-
4 cient curricula designs, instructional approaches,
5 and strategies, and identifying positive academic and
6 social learning opportunities, that—

7 “(A) provide effective transitions between
8 educational settings or from school to post
9 school settings; and

10 “(B) improve educational and transitional
11 results at all levels of the educational system in
12 which the activities are carried out and, in par-
13 ticular, that improve the progress of children
14 with disabilities, as measured by assessments
15 within the general education curriculum in-
16 volved;

17 “(2) applying and testing research findings in
18 typical service settings to determine the usefulness,
19 effectiveness, and general applicability of such re-
20 search findings in such areas as improving instruc-
21 tional methods, curricula, and tools, such as text-
22 books and media;

23 “(3) demonstrating and applying scientifically-
24 based findings to facilitate systemic changes, related
25 to the provision of services to children with disabil-



1 ities, in policy, procedure, practice, and the training
2 and use of personnel;

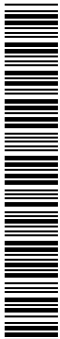
3 “(4) supporting and promoting the coordination
4 of early intervention and educational services for
5 children with disabilities with services provided by
6 health, rehabilitation, and social service agencies;

7 “(5) promoting improved alignment and com-
8 patibility of general and special education reforms
9 concerned with curricular and instructional reform,
10 and evaluation of such reforms;

11 “(6) enabling professionals, parents of children
12 with disabilities, and other persons to learn about,
13 and implement, the findings of scientifically-based
14 research, and successful practices developed in model
15 demonstration projects, relating to the provision of
16 services to children with disabilities;

17 “(7) conducting outreach, and disseminating in-
18 formation, relating to successful approaches to over-
19 coming systemic barriers to the effective and effi-
20 cient delivery of early intervention, educational, and
21 transitional services to personnel who provide serv-
22 ices to children with disabilities;

23 “(8) assisting States and local educational
24 agencies with the process of planning systemic
25 changes that will promote improved early interven-



1 tion, educational, and transitional results for chil-
2 dren with disabilities;

3 “(9) promoting change through a multistate or
4 regional framework that benefits States, local edu-
5 cational agencies, and other participants in partner-
6 ships that are in the process of achieving systemic-
7 change outcomes; or

8 “(10) focusing on the needs and issues that are
9 specific to a population of children with disabilities,
10 such as the provision of single-State and multi-State
11 technical assistance and in-service training—

12 “(A) to schools and agencies serving deaf-
13 blind children and their families;

14 “(B) to programs and agencies serving
15 other groups of children with low-incidence dis-
16 abilities and their families;

17 “(C) addressing the postsecondary edu-
18 cation needs of individuals who are deaf or
19 hard-of-hearing; and

20 “(D) to schools and personnel providing
21 special education and related services for chil-
22 dren with autism spectrum disorders.

23 “(d) BALANCE AMONG ACTIVITIES AND AGE
24 RANGES.—In carrying out this section, the Secretary shall



1 ensure that there is an appropriate balance across all age
2 ranges of children with disabilities.

3 “(e) LINKING STATES TO INFORMATION SOURCES.—

4 In carrying out this section, the Secretary may support
5 projects that link States to technical assistance resources,
6 including special education and general education re-
7 sources, and may make research and related products
8 available through libraries, electronic networks, parent
9 training projects, and other information sources.

10 “(f) APPLICATIONS.—

11 “(1) IN GENERAL.—An eligible entity that
12 wishes to receive a grant, or enter into a contract or
13 cooperative agreement, under this section shall sub-
14 mit an application to the Secretary at such time, in
15 such manner, and containing such information as
16 the Secretary may require.

17 “(2) STANDARDS.—To the maximum extent
18 feasible, each applicant shall demonstrate that the
19 project described in its application is supported by
20 scientifically based research that has been carried
21 out in accordance with the standards for the conduct
22 and evaluation of all relevant research and develop-
23 ment established by the National Center for Edu-
24 cation Research.



1 “(3) PRIORITY.—The Secretary shall give pri-
2 ority to applications that propose to serve teachers
3 and school personnel directly in the school environ-
4 ment.

5 **“SEC. 665. PERSONNEL PREPARATION PROGRAMS TO IM-**
6 **PROVE SERVICES AND RESULTS FOR CHIL-**
7 **DREN WITH DISABILITIES.**

8 “(a) IN GENERAL.—The Secretary shall, on a com-
9 petitive basis, make grants to, or enter into contracts or
10 cooperative agreements with, eligible entities—

11 “(1) to help address State-identified needs for
12 qualified personnel in special education, related serv-
13 ices, early intervention, and regular education, to
14 work with children with disabilities;

15 “(2) to ensure that those personnel have the
16 necessary skills and knowledge, derived from prac-
17 tices that have been determined, through scientif-
18 ically-based research, to be successful in serving
19 those children;

20 “(3) to encourage increased focus on academics
21 and core content areas in special education per-
22 sonnel preparation programs;

23 “(4) to ensure that regular education teachers
24 have the necessary skills and knowledge to provide



1 instruction to students with disabilities in the reg-
2 ular education classroom;

3 “(5) to provide high-quality professional devel-
4 opment for principals, superintendents, and other
5 administrators, including training in—

6 “(A) instructional leadership;

7 “(B) behavioral supports in the school and
8 classroom;

9 “(C) paperwork reduction;

10 “(D) promoting improved collaboration be-
11 tween special education and general education
12 teachers;

13 “(E) assessment and accountability;

14 “(F) ensuring effective learning environ-
15 ments; and

16 “(G) fostering positive relationships with
17 parents; and

18 “(6) to ensure that all special education teach-
19 ers teaching in core academic subjects are highly
20 qualified.

21 “(b) PERSONNEL PREPARATION; AUTHORIZED AC-
22 TIVITIES.—

23 “(1) IN GENERAL.—In carrying out this sec-
24 tion, the Secretary shall support activities, consistent
25 with the objectives described in subsection (a).



1 “(2) AUTHORIZED ACTIVITIES.—Activities that
2 may be carried out under this subsection include the
3 following:

4 “(A) Promoting activities undertaken by
5 institutions of higher education, local edu-
6 cational agencies, and other local entities—

7 “(i) to improve and reform their exist-
8 ing programs, and to support effective ex-
9 isting programs, to prepare teachers and
10 related services personnel—

11 “(I) to meet the diverse needs of
12 children with disabilities for early
13 intervention, educational, and transi-
14 tional services; and

15 “(II) to work collaboratively in
16 regular classroom settings; and

17 “(ii) to incorporate best practices and
18 scientifically based research about pre-
19 paring personnel—

20 “(I) so they will have the knowl-
21 edge and skills to improve educational
22 results for children with disabilities;
23 and

24 “(II) so they can implement ef-
25 fective teaching strategies and inter-

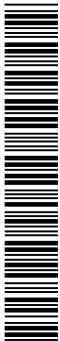


1 ventions to ensure appropriate identi-
2 fication, and to prevent the mis-identi-
3 fication or over-identification, of chil-
4 dren as having a disability, especially
5 minority and limited English pro-
6 ficient children.

7 “(B) Developing, evaluating, and dissemi-
8 nating innovative models for the recruitment,
9 induction, retention, and assessment of highly
10 qualified teachers to reduce shortages in per-
11 sonnel.

12 “(C) Developing and improving programs
13 for paraprofessionals to receive training as spe-
14 cial education teachers, related services per-
15 sonnel, and early intervention personnel, includ-
16 ing interdisciplinary training to enable them to
17 improve early intervention, educational, and
18 transitional results for children with disabilities.

19 “(D) Demonstrating models for the prepa-
20 ration of, and interdisciplinary training of, early
21 intervention, special education, and general edu-
22 cation personnel, to enable the personnel to ac-
23 quire the collaboration skills necessary to work
24 within teams to improve results for children



1 with disabilities, particularly within the general
2 education curriculum.

3 “(E) Promoting the transferability, across
4 State and local jurisdictions, of licensure and
5 certification of teachers and administrators
6 working with such children.

7 “(F) Developing and disseminating models
8 that prepare teachers with strategies, including
9 behavioral interventions, for addressing the con-
10 duct of children with disabilities that impedes
11 their learning and that of others in the class-
12 room.

13 “(G) Developing and improving programs
14 to enhance the ability of general education
15 teachers, principals, school administrators, and
16 school board members to improve results for
17 children with disabilities;

18 “(H) Supporting institutions of higher
19 education with minority enrollments of at least
20 25 percent for the purpose of preparing per-
21 sonnel to work with children with disabilities.

22 “(I) Developing and improving programs
23 to train special education teachers with an ex-
24 pertise in autism spectrum disorders.



1 “(c) LOW-INCIDENCE DISABILITIES; AUTHORIZED
2 ACTIVITIES.—

3 “(1) IN GENERAL.—In carrying out this sec-
4 tion, the Secretary shall support activities, consistent
5 with the objectives described in subsection (a), that
6 benefit children with low-incidence disabilities.

7 “(2) AUTHORIZED ACTIVITIES.—Activities that
8 may be carried out under this subsection include ac-
9 tivities such as the following:

10 “(A) Preparing persons who—

11 “(i) have prior training in educational
12 and other related service fields; and

13 “(ii) are studying to obtain degrees,
14 certificates, or licensure that will enable
15 them to assist children with low-incidence
16 disabilities to achieve the objectives set out
17 in their individualized education programs
18 described in section 614(d), or to assist in-
19 fants and toddlers with low incidence dis-
20 abilities to achieve the outcomes described
21 in their individualized family service plans
22 described in section 636.

23 “(B) Providing personnel from various dis-
24 ciplines with interdisciplinary training that will
25 contribute to improvement in early intervention,



1 educational, and transitional results for children
2 with low-incidence disabilities.

3 “(C) Preparing personnel in the innovative
4 uses and application of technology to enhance
5 learning by children with low-incidence disabili-
6 ties through early intervention, educational,
7 and transitional services.

8 “(D) Preparing personnel who provide
9 services to visually impaired or blind children to
10 teach and use Braille in the provision of serv-
11 ices to such children.

12 “(E) Preparing personnel who provide
13 services to deaf and hard of hearing children by
14 providing direct language and communication
15 access to the general education curriculum
16 through spoken or signed languages, or other
17 modes of communication.

18 “(F) Preparing personnel to be qualified
19 educational interpreters, to assist children with
20 low-incidence disabilities, particularly deaf and
21 hard-of-hearing children in school and school-
22 related activities and deaf and hard-of-hearing
23 infants and toddlers and preschool children in
24 early intervention and preschool programs.



1 “(3) DEFINITION.—As used in this section, the
2 term ‘low-incidence disability’ means—

3 “(A) a visual or hearing impairment, or si-
4 multaneous visual and hearing impairments;

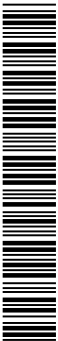
5 “(B) a significant cognitive impairment; or

6 “(C) any impairment for which a small
7 number of personnel with highly specialized
8 skills and knowledge are needed in order for
9 children with that impairment to receive early
10 intervention services or a free appropriate pub-
11 lic education.

12 “(4) SELECTION OF RECIPIENTS.—In selecting
13 recipients under this subsection, the Secretary may
14 give preference to applications that propose to pre-
15 pare personnel in more than one low-incidence dis-
16 ability, such as deafness and blindness.

17 “(5) PREPARATION IN USE OF BRAILLE.—The
18 Secretary shall ensure that all recipients of assist-
19 ance under this subsection who will use that assist-
20 ance to prepare personnel to provide services to vis-
21 ually impaired or blind children that can appro-
22 priately be provided in Braille will prepare those in-
23 dividuals to provide those services in Braille.

24 “(d) LEADERSHIP PREPARATION; AUTHORIZED AC-
25 TIVITIES.—



1 “(1) IN GENERAL.—In carrying out this sec-
2 tion, the Secretary shall support leadership prepara-
3 tion activities that are consistent with the objectives
4 described in subsection (a).

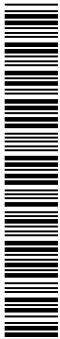
5 “(2) AUTHORIZED ACTIVITIES.—Activities that
6 may be carried out under this subsection include ac-
7 tivities such as the following:

8 “(A) Preparing personnel at the graduate,
9 doctoral, and postdoctoral levels of training to
10 administer, enhance, or provide services to im-
11 prove results for children with disabilities.

12 “(B) Providing interdisciplinary training
13 for various types of leadership personnel, in-
14 cluding teacher preparation faculty, administra-
15 tors, researchers, supervisors, principals, and
16 other persons whose work affects early interven-
17 tion, educational, and transitional services for
18 children with disabilities.

19 “(e) APPLICATIONS.—

20 “(1) IN GENERAL.—Any eligible entity that
21 wishes to receive a grant, or enter into a contract or
22 cooperative agreement, under this section shall sub-
23 mit an application to the Secretary at such time, in
24 such manner, and containing such information as
25 the Secretary may require.



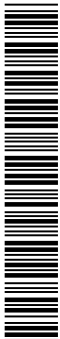
1 “(2) IDENTIFIED STATE NEEDS.—

2 “(A) REQUIREMENT TO ADDRESS IDENTI-
3 FIED NEEDS.—Any application under sub-
4 section (b), (c), or (d) shall include information
5 demonstrating to the satisfaction of the Sec-
6 retary that the activities described in the appli-
7 cation will address needs identified by the State
8 or States the applicant proposes to serve.

9 “(B) COOPERATION WITH STATE EDU-
10 CATIONAL AGENCIES.—Any applicant that is
11 not a local educational agency or a State edu-
12 cational agency shall include information dem-
13 onstrating to the satisfaction of the Secretary
14 that the applicant and one or more State edu-
15 cational agencies or local educational agencies
16 will cooperate in carrying out and monitoring
17 the project.

18 “(3) ACCEPTANCE BY STATES OF PERSONNEL
19 PREPARATION REQUIREMENTS.—The Secretary may
20 require applicants to provide assurances from one or
21 more States that such States—

22 “(A) intend to accept successful completion
23 of the proposed personnel preparation program
24 as meeting State personnel standards for serv-



1 ing children with disabilities or serving infants
2 and toddlers with disabilities; and

3 “(B) need personnel in the area or areas
4 in which the applicant proposes to provide prep-
5 aration, as identified in the States’ comprehen-
6 sive systems of personnel development under
7 parts B and C.

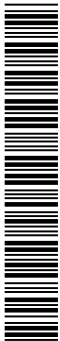
8 “(f) SELECTION OF RECIPIENTS.—

9 “(1) Impact of project.—In selecting recipients
10 under this section, the Secretary shall consider the
11 impact of the project proposed in the application in
12 meeting the need for personnel identified by the
13 States.

14 “(2) REQUIREMENT ON APPLICANTS TO MEET
15 STATE AND PROFESSIONAL STANDARDS.—The Sec-
16 retary shall make grants under this section only to
17 eligible applicants that meet State and profes-
18 sionally-recognized standards for the preparation of
19 special education and related services personnel, if
20 the purpose of the project is to assist personnel in
21 obtaining degrees.

22 “(3) PREFERENCES.—In selecting recipients
23 under this section, the Secretary may—

24 “(A) give preference to institutions of
25 higher education that are educating regular



1 education personnel to meet the needs of chil-
2 dren with disabilities in integrated settings and
3 educating special education personnel to work
4 in collaboration with regular educators in inte-
5 grated settings; and

6 “(B) give preference to institutions of
7 higher education that are successfully recruiting
8 and preparing individuals with disabilities and
9 individuals from groups that are underrep-
10 resented in the profession for which they are
11 preparing individuals.

12 “(g) SERVICE OBLIGATION.—

13 “(1) IN GENERAL.—Each application for funds
14 under subsections (b) and (c) shall include an assur-
15 ance that the applicant will ensure that individuals
16 who receive a scholarship under the proposed project
17 will subsequently provide special education and re-
18 lated services to children with disabilities for a pe-
19 riod of 2 years for every year for which assistance
20 was received or repay all or part of the cost of that
21 assistance, in accordance with regulations issued by
22 the Secretary.

23 “(2) LEADERSHIP PREPARATION.—Each appli-
24 cation for funds under subsection (d) shall include
25 an assurance that the applicant will ensure that in-



1 individuals who receive a scholarship under the pro-
2 posed project will subsequently perform work related
3 to their preparation for a period of 2 years for every
4 year for which assistance was received or repay all
5 or part of such costs, in accordance with regulations
6 issued by the Secretary.

7 “(h) SCHOLARSHIPS.—The Secretary may include
8 funds for scholarships, with necessary stipends and allow-
9 ances, in awards under subsections (b), (c), and (d).

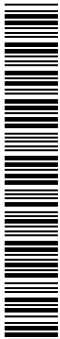
10 **“SEC. 666. STUDIES AND EVALUATIONS.**

11 “(a) IN GENERAL.—

12 “(1) PROGRESS ASSESSMENT.—The Secretary
13 shall, in accordance with the priorities determined
14 under this section and in section 663, directly or
15 through competitive grants, contracts, or cooperative
16 agreements, assess the progress in the implementa-
17 tion of this Act, including the effectiveness of State
18 and local efforts to provide—

19 “(A) a free appropriate public education to chil-
20 dren with disabilities; and

21 “(B) early intervention services to infants and
22 toddlers with disabilities and infants and toddlers
23 who would be at risk of having substantial develop-
24 mental delays if early intervention services were not
25 provided to them.



1 “(2) DELEGATION.—Notwithstanding any other
2 provision of law, the Secretary shall designate the
3 Director of the Institute for Education Sciences to
4 carry out this section.

5 “(3) AUTHORIZED ACTIVITIES.—In carrying
6 out this subsection, the Secretary may support ob-
7 jective studies, evaluations, and assessments, includ-
8 ing studies that—

9 “(A) analyze issues identified in the re-
10 search agenda in section 663(d);

11 “(B) meets the standards in section
12 663(c); and

13 “(C) undertake one or more of the fol-
14 lowing:

15 “(i) An analysis of the measurable im-
16 pact, outcomes, and results achieved by
17 State educational agencies and local edu-
18 cational agencies through their activities to
19 reform policies, procedures, and practices
20 designed to improve educational and tran-
21 sitional services and results for children
22 with disabilities.

23 “(ii) An analysis of State and local
24 needs for professional development, parent
25 training, and other appropriate activities



1 that can reduce the need for disciplinary
2 actions involving children with disabilities.

3 “(iii) An assessment of educational
4 and transitional services and results for
5 children with disabilities from minority
6 backgrounds, including—

7 “(I) data on—

8 “(aa) the number of minor-
9 ity children who are referred for
10 special education evaluation;

11 “(bb) the number of minor-
12 ity children who are receiving
13 special education and related
14 services and their educational or
15 other service placement;

16 “(cc) the number of minor-
17 ity children who graduated from
18 secondary programs with a reg-
19 ular diploma in the standard
20 number of years; and

21 “(dd) the number of minor-
22 ity children who drop out of the
23 educational system without a reg-
24 ular diploma; and

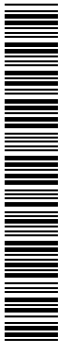


1 “(II) the performance of children
2 with disabilities from minority back-
3 grounds on State assessments and
4 other performance indicators estab-
5 lished for all students.

6 “(iv) A measurement of educational
7 and transitional services and results of
8 children with disabilities served under this
9 Act, including longitudinal studies that—

10 “(I) examine educational and
11 transitional services and results for
12 children with disabilities who are 3
13 through 17 years of age and are re-
14 ceiving special education and related
15 services under this Act, using a na-
16 tional, representative sample of dis-
17 tinct age cohorts and disability cat-
18 egories; and

19 “(II) examine educational results,
20 transition services, postsecondary
21 placement, and employment status of
22 individuals with disabilities, 18
23 through 21 years of age, who are re-
24 ceiving or have received special edu-



1 cation and related services under this
2 Act; and

3 “(v) An identification and report on
4 the placement of children with disabilities
5 by disability category.

6 “(b) NATIONAL ASSESSMENT.—

7 “(1) IN GENERAL.—The Secretary shall carry
8 out a national assessment of activities carried out
9 with Federal funds under this Act in order—

10 “(A) to determine the effectiveness of this
11 Act in achieving its purposes;

12 “(B) to provide timely information to the
13 President, the Congress, the States, local edu-
14 cational agencies, and the public on how to im-
15 plement the Act more effectively; and

16 “(C) to provide the President and the Con-
17 gress with information that will be useful in de-
18 veloping legislation to achieve the purposes of
19 this Act more effectively.

20 “(2) PUBLIC COMMENT.—

21 “(A) PLAN.—Not later than 12 months
22 after the date of enactment of the Improving
23 Education Results for Children With Disabil-
24 ities Act of 2003, the Secretary shall publish in
25 the Federal Register for public comment a com-



1 prehensive plan for developing and conducting
2 the national assessment.

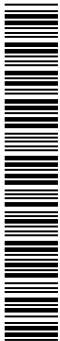
3 “(B) COMMENT PERIOD.—The Secretary
4 shall provide a public comment period of at
5 least 30 days on such plan.

6 “(3) SCOPE OF ASSESSMENT.—The national as-
7 sessment shall assess the—

8 “(A) implementation of programs assisted
9 under this Act and the impact of such pro-
10 grams on addressing the developmental needs
11 of, and improving the academic achievement of,
12 children with disabilities to enable them to
13 reach challenging developmental goals and chal-
14 lenging State academic content standards based
15 on State academic assessments;

16 “(B) types of programs and services that
17 have demonstrated the greatest likelihood of
18 helping students reach the challenging State
19 academic content standards and developmental
20 goals;

21 “(C) implementation of the professional
22 development activities assisted under this Act
23 and the impact on instruction, student aca-
24 demic achievement, and teacher qualifications
25 to enhance the ability of special education



1 teachers and regular education teachers to im-
2 prove results for children with disabilities;

3 “(D) effectiveness of schools, local edu-
4 cational agencies, States, other recipients of as-
5 sistance under this Act, and the Secretary in
6 achieving the purposes of this Act by—

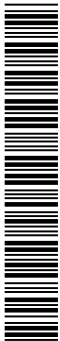
7 “(i) improving the academic achieve-
8 ment of children with disabilities and their
9 performance on regular State-wide assess-
10 ments as compared to nondisabled chil-
11 dren, and the performance of children with
12 disabilities on alternate assessments;

13 “(ii) improving the participation of
14 children with disabilities in the general
15 education curriculum;

16 “(iii) improving the transitions of chil-
17 dren with disabilities at natural transition
18 points—

19 “(iv) placing and serving children with
20 disabilities, including minority children, in
21 the least restrictive environment appro-
22 priate;

23 “(v) preventing children with disabil-
24 ities, especially children with emotional dis-



1 turbances and specific learning disabilities,
2 from dropping out of school;

3 “(vi) addressing the reading and lit-
4 eracy needs of children with disabilities;

5 “(vii) reducing the over-identification
6 of children, especially minority and limited
7 English proficient children, as having a
8 disability;

9 “(viii) improving the participation of
10 parents of children with disabilities in the
11 education of their children; and

12 “(ix) resolving disagreements between
13 education personnel and parents through
14 alternate dispute resolution activities in-
15 cluding mediation and voluntary binding
16 arbitration.

17 “(4) INTERIM AND FINAL REPORTS.—The Sec-
18 retary shall submit to the President and the
19 Congress—

20 “(A) an interim report that summarizes
21 the preliminary findings of the assessment not
22 later than 30 months after the date of the en-
23 actment of the Improving Education Results for
24 Children With Disabilities Act of 2003; and



1 “(B) a final report of the findings of the
2 assessment not later than 5 years after the date
3 of the enactment of such Act.

4 “(c) ANNUAL REPORT.—The Secretary shall provide
5 an annual report to the Congress that—

6 “(1) summarizes the research conducted under
7 section 663;

8 “(2) analyzes and summarizes the data re-
9 ported by the States and the Secretary of the Inte-
10 rior under section 618;

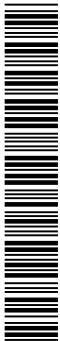
11 “(3) summarizes the studies and evaluations
12 conducted under this section and the timeline for
13 their completion;

14 “(4) describes the extent and progress of the
15 national assessment; and

16 “(5) describes the findings and determinations
17 resulting from reviews of State implementation of
18 this Act.

19 **“SEC. 667. AUTHORIZATION OF APPROPRIATIONS.**

20 “‘There are authorized to be appropriated to carry out
21 this subpart \$261,861,000 for fiscal year 2004 and such
22 sums as may be necessary for each of the fiscal years 2005
23 through 2009.



1 **“Subpart 3—Supports to Improve Results for**
2 **Children With Disabilities**

3 **“SEC. 671. PURPOSES.**

4 “The purposes of this subpart are to ensure that—

5 “(1) children with disabilities and their parents
6 receive training and information on their rights, re-
7 sponsibilities, and protections under this Act, in
8 order to develop the skills necessary to cooperatively
9 and effectively participate in planning and decision
10 making relating to early intervention, educational,
11 and transitional services;

12 “(2) parents, teachers, administrators, early
13 intervention personnel, related services personnel,
14 and transition personnel receive coordinated and ac-
15 cessible technical assistance and information to as-
16 sist them in improving early intervention, edu-
17 cational, and transitional services and results for
18 children with disabilities and their families; and

19 “(3) appropriate technology and media are re-
20 searched, developed, and demonstrated, to improve
21 and implement early intervention, educational, and
22 transitional services and results for children with
23 disabilities and their families.



1 **“SEC. 672. PARENT AND COMMUNITY TRAINING AND INFOR-**
2 **MATION CENTERS.**

3 “(a) PROGRAM AUTHORIZED.—The Secretary may
4 make grants to, and enter into contracts and cooperative
5 agreements with, parent and community organizations to
6 support parent and community training and information
7 centers to carry out activities under this section.

8 “(b) REQUIRED ACTIVITIES.—Each parent and com-
9 munity training and information center that receives as-
10 sistance under this section shall—

11 “(1) provide training and information that
12 meets the needs of parents of children with disabil-
13 ities living in the area served by the center, includ-
14 ing underserved parents and parents of children who
15 may be inappropriately identified, to enable children
16 with disabilities—

17 “(A) to meet developmental and chal-
18 lenging academic achievement goals that have
19 been established for all children; and

20 “(B) to be prepared to lead productive
21 independent adult lives to the maximum extent
22 possible.

23 “(2) ensure that the training and information
24 provided meets the needs of low-income parents and
25 parents of children with limited English proficiency;



1 “(3) serve the parents of infants, toddlers, and
2 children with the full range of disabilities;

3 “(4) assist parents—

4 “(A) to better understand the nature of
5 their children’s disabilities and their edu-
6 cational, developmental, and transitional needs;

7 “(B) to communicate effectively and work
8 collaboratively with personnel responsible for
9 providing special education, early intervention,
10 transition services, and related services;

11 “(C) to participate in decisionmaking proc-
12 esses and the development of individualized
13 education programs under part B and individ-
14 ualized family service plans under part C;

15 “(D) to obtain appropriate information
16 about the range, type and quality of options,
17 programs, services, and resources available to
18 assist children with disabilities and their fami-
19 lies in school and at home;

20 “(E) to understand the provisions of this
21 Act for the education of, and the provision of
22 early intervention services to, children with dis-
23 abilities; and

24 “(F) to participate in activities at the
25 school level which benefit their children;



1 “(5) assist parents in resolving disputes in the
2 most expeditious way possible, including encouraging
3 the use, and explaining the benefits, of alternative
4 methods of dispute resolution, such as the use of in-
5 dividualized education program facilitators and me-
6 diation and voluntary binding arbitration processes
7 described in section 615(e);

8 “(6) assist parents to understand the avail-
9 ability of, and how to effectively use, procedural
10 safeguards under this Act;

11 “(7) network with appropriate clearinghouses,
12 including organizations conducting national dissemi-
13 nation activities under subpart 2, and with other na-
14 tional, State, and local organizations and agencies,
15 such as protection and advocacy agencies, that serve
16 parents and families of children with the full range
17 of disabilities; and

18 “(8) annually report to the Secretary on—

19 “(A) the number and demographics of par-
20 ents to whom it provided information and train-
21 ing in the most recently concluded fiscal year;

22 “(B) the effectiveness of strategies used to
23 reach and serve parents, including underserved
24 parents of children with disabilities; and



1 “(C) the number of parents served who
2 have resolved disputes through alternative
3 methods of dispute resolution.

4 “(c) OPTIONAL ACTIVITIES.—A parent training and
5 community and information center that receives assistance
6 under this section may—

7 “(1) provide information to teachers and other
8 professionals to assist them in improving results for
9 children with disabilities; and

10 “(2) assist students with disabilities to under-
11 stand their rights and responsibilities under section
12 615(l) on reaching the age of majority.

13 “(d) APPLICATION REQUIREMENTS.—Each applica-
14 tion for assistance under this section shall identify with
15 specificity the special efforts that the applicant will
16 undertake—

17 “(1) to ensure that the needs for training and
18 information of underserved parents of children with
19 disabilities in the area to be served are effectively
20 met; and

21 “(2) to work with community-based organiza-
22 tions, including those that work with low-income
23 parents and parents of children with limited English
24 proficiency.

25 “(e) DISTRIBUTION OF FUNDS.—



1 “(1) IN GENERAL.—The Secretary shall make
2 at least 1 award to a parent organization in each
3 State, unless the Secretary does not receive an appli-
4 cation from such an organization in each State of
5 sufficient quality to warrant approval.

6 “(2) SELECTION REQUIREMENT.—The Sec-
7 retary shall select among applications submitted by
8 parent organizations in a State in a manner that en-
9 sures the most effective assistance to parents, in-
10 cluding parents in urban and rural areas, in the
11 State.

12 “(f) QUARTERLY REVIEW.—

13 “(1) REQUIREMENTS.—

14 “(A) MEETINGS.—The board of directors
15 or special governing committee of each organi-
16 zation that receives an award under this section
17 shall meet at least once in each calendar quar-
18 ter to review the activities for which the award
19 was made.

20 “(B) ADVISING BOARD.—Each special gov-
21 erning committee shall directly advise the orga-
22 nization’s governing board of its views and rec-
23 ommendations.

24 “(2) CONTINUATION AWARD.—When an organi-
25 zation requests a continuation award under this sec-



1 tion, the board of directors or special governing com-
2 mittee shall submit to the Secretary a written review
3 of the parent training and information program con-
4 ducted by the organization during the preceding fis-
5 cal year.

6 “(g) DEFINITION OF PARENT ORGANIZATION.—As
7 used in this section, the term ‘parent organization’ means
8 a private nonprofit organization (other than an institution
9 of higher education) that—

10 “(1) has a board of directors—

11 “(A) the majority of whom are parents of
12 children with disabilities ages birth through 26;

13 “(B) that includes—

14 “(i) individuals working in the fields
15 of special education, related services, and
16 early intervention; and

17 “(ii) individuals with disabilities; and

18 “(C) the parent and professional members
19 of which are broadly representative of the popu-
20 lation to be served, including low-income and
21 limited English proficient parents of children
22 with disabilities; or;

23 “(2) has—

24 “(A) a membership that represents the in-
25 terests of individuals with disabilities and has



1 established a special governing committee that
2 meets the requirements of paragraph (1); and

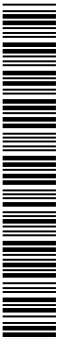
3 “(B) a memorandum of understanding be-
4 tween the special governing committee and the
5 board of directors of the organization that
6 clearly outlines the relationship between the
7 board and the committee and the decision-
8 making responsibilities and authority of each.

9 **“SEC. 673. TECHNICAL ASSISTANCE FOR PARENT AND COM-**
10 **MUNITY TRAINING AND INFORMATION CEN-**
11 **TERS.**

12 “(a) IN GENERAL.—The Secretary may, directly or
13 through awards to eligible entities (as defined in section
14 662(b)), provide technical assistance for developing, as-
15 sisting, and coordinating parent and community training
16 and information programs carried out by parent and com-
17 munity training and information centers receiving assist-
18 ance under sections 672.

19 “(b) AUTHORIZED ACTIVITIES.—The Secretary may
20 provide technical assistance to a parent and community
21 training and information center under this section in areas
22 such as—

23 “(1) effective coordination of parent training ef-
24 forts;



1 “(2) dissemination of scientifically based re-
2 search and information;

3 “(3) promotion of the use of technology, includ-
4 ing assistive technology devices and assistive tech-
5 nology services;

6 “(4) reaching underserved populations, includ-
7 ing parents of low income and limited English pro-
8 ficient children with disabilities;

9 “(5) including children with disabilities in gen-
10 eral education programs;

11 “(6) facilitation of transitions from—

12 “(A) early intervention services to pre-
13 school;

14 “(B) preschool to elementary school;

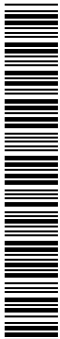
15 “(C) elementary school to secondary
16 school; and

17 “(D) secondary school to postsecondary en-
18 vironments; and

19 “(7) promotion of alternative methods of dis-
20 pute resolution, including mediation and voluntary
21 binding arbitration.

22 **“SEC. 674. TECHNOLOGY DEVELOPMENT, DEMONSTRATION,**
23 **AND UTILIZATION; AND MEDIA SERVICES.**

24 “(a) IN GENERAL.—The Secretary shall competi-
25 tively make grants to, and enter into contracts and cooper-



1 ative agreements with, eligible entities (as defined in sec-
2 tion 662(b)) to support activities described in subsections
3 (b) and (c).

4 “(b) TECHNOLOGY DEVELOPMENT, DEMONSTRA-
5 TION, AND UTILIZATION.—

6 “(1) IN GENERAL.—In carrying out this sec-
7 tion, the Secretary shall support activities to pro-
8 mote the development, demonstration, and utiliza-
9 tion of technology.

10 “(2) AUTHORIZED ACTIVITIES.—The following
11 activities may be carried out under this subsection:

12 “(A) Conducting research on, and pro-
13 moting the demonstration and use of—

14 “(i) innovative and emerging tech-
15 nologies for children with disabilities; and

16 “(ii) improved transfer of technology
17 from research and development to practice.

18 “(B) Supporting research, development,
19 and dissemination of technology with universal-
20 design features, so that the technology is acces-
21 sible to individuals with disabilities without fur-
22 ther modification or adaptation.

23 “(C) Demonstrating the use of systems to
24 provide parents and teachers with information
25 and training concerning early diagnosis of,



1 intervention for, and effective teaching strate-
2 gies for, young children with reading disabil-
3 ities.

4 “(c) EDUCATIONAL MEDIA SERVICES; OPTIONAL AC-
5 TIVITIES.—In carrying out this section, the Secretary may
6 support—

7 “(1) educational media activities that are de-
8 signed to be of educational value in the classroom
9 setting to children with disabilities;

10 “(2) providing video description, open cap-
11 tioning, or closed captioning of television programs,
12 videos, or other materials with an education-based
13 content for use in the classroom setting when such
14 services are not provided by the producer or dis-
15 tributor of such information, including programs
16 and materials associated with new and emerging
17 technologies such as CDs, DVDs, video streaming,
18 and other forms of multimedia;

19 “(3) distributing materials described in para-
20 graphs (1) and (2) through such mechanisms as a
21 loan service; and

22 “(4) providing free educational materials, in-
23 cluding textbooks, in accessible media for visually
24 impaired and print-disabled students in elementary
25 and secondary schools.



1 “(d) APPLICATIONS.—Any eligible entity (as defined
2 in section 662(b)) that wishes to receive a grant, or enter
3 into a contract or cooperative agreement, under this sec-
4 tion shall submit an application to the Secretary at such
5 time, in such manner, and containing such information as
6 the Secretary may require.

7 “(e) AUTHORIZATION OF APPROPRIATIONS.—There
8 are authorized to be appropriated to carry out this subpart
9 \$58,710,000 for fiscal year 2004 and such sums as may
10 be necessary for each of the fiscal years 2005 through
11 2009.”.

